

South Africa's Criminal Justice System: Policy and Priorities

by

Eric Pelsler & Janine Rauch



Paper presented at the [South African Sociological Association](#) (SASA) Annual Congress, *Globalisation, Inequality and Identity*, 1-4 July 2001.

Eric Pelsler is a Senior Researcher in the *Crime and Justice Programme* at the [Institute for Security Studies](#).

Janine Rauch is an independent consultant.

Abstract

This paper presents a policy and budget analysis of the criminal justice sector – police, courts, prisons and some aspects of the welfare system – in South Africa. It outlines the priorities of the criminal justice agencies in South Africa by describing recent national government policy and budget allocations. It also examines new developments, such as the business-supported 'integrated justice system' initiative, the establishment of the National Drug Authority, and the Metropolitan Police Departments established in leading South African cities. The paper is based on research conducted for the UK Department for International Development in South Africa early in 2001 and presents perhaps the most comprehensive picture of activity in the safety, security and access to justice sector currently available in South Africa.

Acknowledgements

The authors would like to thank Antony Altbeker for his assistance with the budget analysis. Sarah Henkeman was part of the original DFID research team. This research was funded by DFID-SA.

1. Introduction

The research informing this report was conducted in January 2001 for the British Department for International Development in South Africa (DFID-SA). The methodology involved:

- Analysis of relevant South African policy documents;
- A series of interviews with the primary stakeholders in the government departments involved in the safety, security and access to justice field;
- Gathering information about the activities of international donor agencies which support the criminal justice sector in South Africa, by means of a meeting with donors and an email questionnaire.

The writers operated under severe time constraints, and, as a result, were not been able to

conduct all the data-gathering initially envisaged for the project.¹ Despite the shortcomings, however, the review presents a current and accurate picture of policy in the safety, security and access to justice sector in South Africa.

2. Criminal Justice System Policy

The South African government's approach to criminal justice is contained in the overarching 1996 National Crime Prevention Strategy (NCPS), which, to some extent, still guides activities in the criminal justice sector. Further policy documents, such as the 1998 White Paper on Safety and Security, and the Department of Justice's *Vision 2000* document have built on this framework strategy. However, it is the operational plans of the [South African Police Service](#) (SAPS) and the availability of funds from the national treasury which have the most impact on the development of government crime prevention programmes.

2.1 The National Crime Prevention Strategy

This strategy, adopted by Cabinet in May 1996, motivated a shift in emphasis from crime control to crime prevention; that is, a shift towards understanding crime as a social issue rather than a solely security issue. The NCPS argued that dealing with crime required a wide array of developmental and preventative measures, as opposed to the traditional law and order approach of more cops, courts and corrections.

In short, the NCPS provided a framework for problem-solving, in which national government departments, different spheres of government, and organisations from civil society would be brought together in order to identify and implement multi-agency solutions to specific problems. The NCPS therefore aimed to provide the means by which the police, other government departments, the private sector and the non-governmental community could cohere their activities.

In doing so, the NCPS addressed four key focus areas:

- *Re-engineering the Criminal Justice System*: aimed at providing an efficient and legitimate criminal justice system as the foundation for crime prevention, law enforcement, and the protection of human rights.
- *Reducing Crime through Environmental Design*: aimed at limiting environmental or situational opportunities for crime and maximising constraints by, primarily, ensuring that safety and crime prevention considerations were applied in new development programmes, and in the re-design and upgrading of existing programmes.
- *Community Values and Education*: aimed at harnessing community participation and involvement in crime prevention to ensure a positive impact on the way society engages with and responds to crime and conflict.
- *Transnational Crime*: aimed at addressing the enormous influence of international and regional criminal syndicates and involves improved border control, addressing cross border crime and regional co-operation.

Further, the NCPS prioritised for specific attention:

- Crimes involving firearms;
- Organized crime;
- White-collar crime;
- Violence against women and children;
- Violence associated with inter-group conflict;
- Vehicle theft and hijacking; and
- Corruption in the Criminal Justice System

In early 1997 responsibility for facilitating the implementation of the NCPS was allocated to the newly established National Secretariat for Safety and Security.

The Secretariat established a range of structures aimed at facilitating implementation of the NCPS – these included a Ministers and Director's-General Forum which functioned to provide high level decision-making concerning priority areas of action, and a Departmental Co-ordinating Mechanism which enables such priorities to be integrated and implemented at the programme and project level.

Some projects directly associated with implementation of the NCPS include:

- The initiation of an Integrated Justice System Programme (IJS) - which provides the design for an integrated criminal justice system, particularly with respect to information management; (this has become the flagship project of the NCPS);
- The development and implementation of a Witness Protection Programme;
- The development and implementation of a Victim Empowerment Programme;
- A review of, and recently changed procedures for the administration of bail;
- The 1998 National Victim Survey;
- The initiation of 'Safer City' programmes in some of the metropolitan areas
- A focus on the provision of secure care facilities for youthful offenders;
- A focus on meeting the resource requirements of South Africa's courts; and
- The initiation of a number of programmes focussing on key crime categories like vehicle theft, narcotics and border control.

However, following the restructuring of the Department of Safety and Security shortly after the appointment of the new Minister for Safety and Security and National Commissioner in 1999, the NCPS lost the central co-ordinating office that existed in the Secretariat for Safety and Security. Now, social crime prevention initiatives are driven from the Crime Prevention Division of the SAPS Head Office. The IJS projects are co-ordinated by a Project Office which is staffed by [Business Against Crime](#).

2.2 The 1998 White Paper on Safety and Security

Building on the NCPS, in 1998 Cabinet approved the Department of Safety and Security's White Paper entitled "In Service of Safety" which was intended to provide the policy framework for the provision of safety and security until 2004.

In brief, the White Paper focuses on three key areas – law enforcement, crime prevention and institutional reform to meet delivery goals.

Law Enforcement

The focus areas identified in the White Paper to ensure effective law enforcement and service orientated policing are intended to:

- Improve the investigative capacity of the SAPS;
- Implement targeted visible policing; and
- Meet the needs of victims through adequate service delivery.

Crime Prevention

The White Paper advocates targeted, multi-agency crime prevention strategies focusing on offenders and victims and the environment in which they live, as well as on the particular root causes of particular crime types.

Institutional Reform

At national level, the policy interventions outlined in the White Paper sought to clarify issues of accountability and operational independence by strengthening the role of the Secretariat for Safety and Security.

At provincial level, the White Paper provided for an active role for the provincial administrations in crime prevention. Particularly, the White Paper advocated that provinces should initiate and co-ordinate social crime prevention programmes.

At local level, the White Paper advocated a much greater role for local government in the delivery of crime prevention initiatives. For local government, the White Paper detailed the following functions:

- Initiate, co-ordinate and participate in targeted social crime prevention;
- Work with local police to set joint priorities and possible areas for local government intervention;
- Align internal resources and objectives within a crime prevention framework; to ensure that development projects take account of crime prevention framework, effectively enforce by-laws; and
- Assist victims of crime through the provision of information regarding available support services.

Further, the White Paper endorsed the establishment of local or municipal police services, which would enforce road traffic and related laws, police municipal by-laws and perform visible policing. Legislation enabling and regulating the establishment of such municipal police services was passed in 1998.

The White Paper also outlined a new role of the Community Police Forums (CPFs). Thus, the White Paper provides that CPFs:

- Co-operate with local government to jointly set crime prevention priorities;
- Assist in the development of targeted social crime prevention programmes;
- Identify flash-points, crime patterns and community anti-crime activities;

- Mobilise and organise community based campaigns and activities; and
- Facilitate regular attendance by local elected representatives at CPFs.

The White Paper thus articulated a framework for focused interventions which, it was believed, would deliver the most impact in the short, 5-year, term. However, implementation of the policy over the past two years has focussed, almost wholly, on the law enforcement aspects and the infrastructural design of an integrated criminal justice system. This is mainly due to government's recognition and approval of a hands-on, tough and rapid approach to confronting the high levels of crime in the country. This agenda is encapsulated in the three year crime-combating strategy of the South African Police Service (SAPS).

2.3 The South African Police Service's three-year strategy

In March last year, the SAPS initiated a high-profile strategy to combat crime in particular "hot-spots" - areas most affected by crime - over the following three-years.

Broadly put, the strategy has two primary objectives:

- To reduce or "stabilise" crime in the targeted areas to the extent that station level policing can be "normalised" and effective. To support this, SAPS projects aimed at improving station level performance, like the service delivery improvement programme, is also focussed on these areas.
- To improve public confidence in the police and to improve public perceptions of safety.

The new SAPS strategy has three main components:

- A geographical approach in which areas affected high rates of crime, and particularly violent crime, are clustered into "crime-combating zones" which are then targeted for aggressive high density street-level policing.
- This is accompanied by an intelligence-driven focus on organised crime syndicates operating in these areas which is aimed at disrupting syndicate activities by arresting syndicate leaders and "runners", and by closing down the flow of goods and markets for these goods.
- Finally, these operational activities are meant to be supported by medium-term social crime prevention initiatives aimed at addressing the social, economic and development deficits conducive to high rates of criminal activity in these areas.

It is this police operational strategy that now drives prioritisation within South Africa's criminal justice system. This is reflected in the priorities articulated for the departments of the criminal justice system by the Cabinet.

2.4 Priorities of the criminal justice system: the IJS

At Cabinet level, South Africa's criminal justice system is organised into one of six government clusters, the Justice, Crime Prevention and Security Cluster. This cluster consists of the Ministries of Safety and Security, Justice and Constitutional Development, Correctional Services, Home Affairs and Defence. It functions, according to Safety and

Security Minister Steve Tshwete, to focus the activities and resources of the various departments to:

- address crime and public disorder;
- improve the functioning of the criminal justice system; and
- address factors that impact negatively on the socio-economic development of the country.²

At a meeting in early 2001, the cluster leaders (ministers and directors-general) agreed to three shared priorities (see below) and, significantly, to a new 'IJS 2000 Plus' strategy document, which defined the collective mission of the four criminal justice departments as:

To reduce crime. We are accountable to the public and the State, in rendering an accessible, fair, speedy and cost-effective system of justice, in the interest of a safer and more secure South Africa. We will achieve this by integrating the management of cases and offenders through the four departments, supported by the necessary enabling technologies.

This is significant in that, for the first time, the four departments had agreed on a joint mission; and it marked the beginning of a phase of serious government commitment to the IJS initiative. This was, in part, a result of the fact that sufficient finances were finally becoming available for use in IJS projects - the government operates on a three-year budget planning cycle.

Thus, the three primary priorities³ identified for the cluster departments were:

- Transformation of the criminal justice system;
- The joint crime prevention and combating strategy;
- Security.

For each of these priorities, a number of interventions were identified:

1. Transformation of the criminal justice system – the Integrated Justice System

- ***The automation of justice processes*** - aimed at integrating the activities of selected police stations, courts and prisons in Johannesburg and Durban (the pilot sites), with those of the department of social development. This initiative is due for completion in March 2003.
- ***A national photo image system*** – aimed at creating a digital photo database for the identification of offenders and improving exhibit management, due for completion in March 2003.
- ***An inmate tracking system*** – aimed at improving identification and monitoring of prisoners in various holding facilities, due for completion in March 2004.
- ***An automated fingerprint identification system*** – for which a contract with a service provider has already been agreed.
- ***A range of smaller information-sharing projects*** – aimed at improving communication between the departments of the criminal justice system, especially to ensure access for the IJS departments to the SAPS Crime Administration System

(CAS) and Criminal Record Identification System.

- **Reducing overcrowding of prisons** – primarily through building new prisons. Four are to be commissioned in 2001. In addition, the cluster is considering ways to reduce the average detention cycle time of awaiting trial offenders from 122 days to 87 days.
- **Policy** that will be developed this year for the IJS includes legislation to introduce plea-bargaining to the CJS, and new standards for sentencing.
- **Training** and capacity-building to enable departments to cope with these initiatives has also been prioritised.

2. The joint crime prevention and crime combating strategy

Five areas for SAPS interventions were agreed:

2.1. High crime areas and social crime prevention

- Development and implementation of integrated plans for police stations identified in the 'Presidential lead areas'⁴;
- Continue with intelligence-driven police operations and improve government intelligence profiles;
- Establish special tracing teams to ensure arrest of roughly 50 000 wanted persons;
- Establish 50 crime prevention units to implement 'sector policing' in the high-crime areas;
- Implementation of a new crime prevention training course for police officials;
- Establish air-supported rapid reaction teams – to ensure a rapid response to hijacking, armed robbery and other serious crimes in Gauteng, KwaZulu-Natal, Western Cape and Eastern Cape;
- Reduce case backlogs in the courts in the high-crime areas;
- Expand the capacity of courts to deal with increased case loads in the high crime areas where police efforts are concentrated; and
- Manage increases in prison inmate population in the high-crime areas.

2.2 Organised crime

- Enhance intelligence profiles on crime syndicates;
- Establish 300 multi-disciplinary 'Organised Crime Task Teams' for deployment in the priority areas.

2.3 Border Control

- Include border control departments in Organised Crime Task Teams;
- Link IT-systems of border control departments to the IT systems of the criminal justice departments;
- Develop procedures to control the illegal movement of persons and goods over borders;
- Finalise policy on the role of the SANDF in border control.

2.4 Crimes against women and children

- Intensify implementation of domestic violence act and victim empowerment programmes by the criminal justice departments, especially the SAPS;
- Launch two national awareness campaigns about these crimes;
- Implement two projects in each of 20 station areas with the highest incidence of crimes against women and children.

2.5 Community partnerships

- Rationalise existing government liaison structures with communities. This will involve creating a single structure for community liaison with the relevant criminal justice departments;
- Launch a community mobilisation campaign in the 124 priority police station areas to mobilise the communities against crime and in support of the police.

3. Security

Ten focus areas for intervention were outlined:

3.1 Public order flashpoints

- Creation of a rapid deployment stability force - to be deployed to quickly stabilise serious public order incidents;
- Implementation of a special operation against gang activities and violence;
- Implementation of a security operation regarding the restructuring of the taxi industry.

3.2 Urban Terrorism

- Implementation of a national operation against urban terrorism;
- Implementation of a protection plan for judges, magistrates, prosecutors and detectives.

3.3 Extremist right-wing activities

- Implementation of national operation against extremist right-wing activities/li>

3.4 Counter espionage and protective security

- Implementation of management information system (MIS) document

3.5 Disaster relief and management

- Completion of contingency plans; and
- Implementation of one exercise for disaster management

3.6 Government security services

- Establishment of government security services.

3.7 Inter-departmental co-ordination

- Operationalise the national security council (NSC).

3.8 Racism

- Plans to combat racism, especially in the security forces.

3.9 Morale

- Conduct analyses regarding issues impacting on morale in the security forces;
- Implement plan to address identified issues

3.10 Witness Protection

- Now the responsibility of the Directorate for Special Operations, under the auspices of the National Director of Public Prosecutions, the priority is to rationalise the criteria for eligibility and to ensure the safety of those on the programme.

These priorities are clearly ambitious and will focus the activities and spending of the criminal justice departments. To assess the extent to which these priorities have been acted upon, it is necessary to look at the allocation of fiscal resources to these departments.

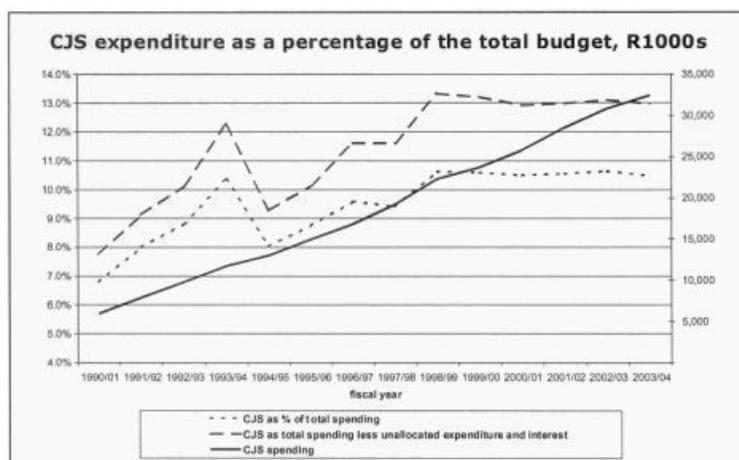
3. Financing the Criminal Justice System

3.1 Broad budget trends

The criminal justice system refers here to the departments of justice, safety and security and correctional services. Although the department of welfare does spend some of its budget on criminal justice programmes, this is a small proportion of its overall budget and is difficult to track.

Naturally, looking at the extent of the resourcing of the criminal justice system does not exhaust the question of the extent to which criminal justice issues has been prioritised. The effort put into inexpensive activities which build public confidence in the criminal justice system, the extent of visible political commitment to safety and security and law enforcement, and the development of appropriate organisational and legal mechanisms are also important indicators of prioritisation within the criminal justice cluster.

However, resource levels, particularly in a resource-constrained environment, are key markers of prioritisation, and the following section looks at the extent to which government's commitment to reducing crime and violence has been translated into increased allocations to the criminal justice system.



As reflected above, the budget of the criminal justice system has grown from R5.9 billion in 1990/01 to R28.5 billion in 2001/02. This translates into an annual average growth rate of 15.4 per cent over the last 11 years.

This has been somewhat faster than the growth rate of government expenditure in general (10.9 per cent a year), and even faster than expenditure less interest payments which has grown by 10.1 per cent annually.

This means that the proportion of general government expenditure consumed by the criminal justice system has grown from 7.7 per cent of non-interest spending in 1990/91 to 13 per cent in 2001/02.

Indeed, the importance attached to the criminal justice system after 1994/95 is understated by the broad summary provided above because of details related to the integration of the administrations of the former bantustans and the old white Republic.

Since 1994, there has been a rise in criminal justice expenditure as a proportion of overall government expenditure - from 9.3 to 13 per cent, in only 7 years.

The trend of shifting resources into criminal justice has been continued in the 2001 Budget, as well as in the medium-term expenditure estimates for 2002/03 and 2003/04. The three departments' budgets combined will grow by a little more than 8 per cent a year between 2000/01 and 2003/04. The departments of safety and security, justice and constitutional development, and correctional services will see their budgets grow by 6.9 per cent, 12.7 per cent and 8.3 per cent respectively a year over this period. These rates of growth compare well with the growth rates of government spending as a whole (which will grow at 7.1 per cent a year).

The criminal justice system commands a reasonably large and growing proportion of public spending, and that, at least in the aggregate, expenditure on the various activities which make up the work of the criminal justice system has grown rapidly.

That said, there are two important qualifications that need to be made.

1. The make-up of spending in the criminal justice system

The allocation of resources between the departments making up the criminal justice system has shown some fairly significant changes over the past five years. In that time, the allocation to SAPS has fallen from 67.5 per cent of the criminal justice system budget to 62.6 per cent, while Justice's allocation has risen from 11.8 per cent to 14.6 per cent and Correctional Services has risen from 20.7 per cent to 22.7 per cent. This pattern is broadly matched in the distribution of personnel, with SAPS having started with 74.8 per cent of staff and ending with 70.9 per cent, while DCS staff now make up 20.4 per cent of criminal justice system employees, up from 17.1 per cent in 1997/98.

Although expenditure on these departments has grown impressively over the past decade, so too have the number of functions allocated to those institutions and, in the case of the Department of Justice and Constitutional Development, it is not at all clear that all of these new functions (or the rapid growth in existing functions) ought properly to be considered growth in expenditure on criminal justice.

In this regard, looking at the budget of the Department of Justice, expenditure on auxiliary and associated services consumes between 18 and 26 per cent of the budget in each year between 1997/98 and 2003/04. Now while some of the services funded through this budget are related to the provision of procedurally fair criminal justice – especially the amounts spent on the Legal Aid Board – a large proportion of this money is not meaningfully related to criminal justice.

This includes the monies allocated for the functioning of various commissions – of which the most expensive was the [Truth and Reconciliation Commission](#) (TRC) – as well as allocations totalling R800 million made for the payment of reparations to victims of apartheid era violations of human rights. The budget allocated for the public funding of political parties represented in parliament also appears on this budget, about R60 million a year.

Since these expenditures are often related to newly created functions, their inclusion in the overall budget total of the Department of Justice tends to raise the apparent rate of growth of the budget as a whole.

Much the same might be said about the impact of the creation of the Directorate of Special Operations (DSO). However, in this case, the new functions unambiguously relate to the provision of justice. They can, therefore, be included in the calculation of the rate of growth of expenditure on criminal justice.

2. Changing patterns of expenditure within department budgets

The budgets of the departments making up the criminal justice system have undergone some significant structural changes over the past few years. Whereas the trend between 1994/95 and 1997/98 was for more and more fiscal resources to be consumed on personnel expenditure, this trend was moderated between 1997/98 and 2001/02. During this time the proportion of the entire criminal justice system budget being spent on personnel expenditure fell from 76.8 per cent to 68.2 per cent.

Given that this has occurred without significant declines in the number of people employed in the criminal justice system – which had an establishment of 176,200 people in 1997/98 and 173,400 in 2001/02. The net effect has been that the growth in the budget over the past 5 years has been devoted to non-personnel expenditure. The period has also seen continued growth in the average remuneration of members of the criminal justice system departments above the rate of inflation, with remuneration growing at an average of 7.5 per cent a year over the period.

The increased emphasis on non-personnel expenditure is also reflected in the rapid rise of expenditure on capital equipment and infrastructure, combined spending on which rose by 15.4 per cent a year between 1997/98 and 2001/02 from R917 million to R1,628 million in 2001/02.

This change in expenditure reflects, in part, increased spending on prison construction between 1997/98 and 2001/02. Over the next three years, however, this spending item is set to grow at nearly 27 per cent a year, reflecting the importance being attached to dealing with the accommodation crisis in South African prisons. This increase is over and above the growth in expenditure on privately owned prisons from R3.5 million in 2000/01 to nearly R500 million in 2003/04.

Apart from the rapid growth in spending on prisons, the growth in non-personnel expenditure reflects a growing realisation that the equipment and infrastructure of the IJS need to be maintained, upgraded and expanded if personnel are to do their work effectively.

At the same time, the fact that the staff complement of the criminal justice system has fallen over the past 5 years must have had an impact on service delivery. This is particularly the case with the SAPS which has seen a decline in staff numbers of nearly 7 per cent from 131,700 to 123,000 between 1997/98 and 2001/02, with the other departments showing modest increases in staff numbers.

Indeed, it is tempting to conclude that the improvement in spending on capital infrastructure, as well as the control of personnel spending in general has been effected by reducing headcount in the SAPS, while allowing for some offsetting increases in staff numbers in Correctional Services.

The budget of the criminal justice system departments has grown rapidly, and more money has been put into supportive infrastructure. However, at the same time, personnel numbers in the police have fallen, while those in Justice have not increased markedly, leaving the criminal justice system in 2001/02 staffed at a lower level than had been the case in 1997/98.

Moreover, the expanding mandate of the Department of Justice and Constitutional Development has meant that some of the resources provided to the justice system have not been directed to the provision of safety and security or to enforcement of the law.

3.2 Priorities for 2001/02 to 2003/04

The 2001 Budget Review states that the expenditure priorities of government for the 2001/02 to 2003/04 period are:

- Economic growth and job creation;
- Reducing inequality and promoting social development; and
- Strengthening the provision of safety and justice.

The additional resources allocated to the criminal justice system, together with the manner in which the baseline budgets have been allocated to the various functions and activities which make up the work of the system, reflect the following priorities:

- Improving personnel remuneration while growing personnel numbers modestly;
- Investing in supportive equipment, supplies and infrastructure, and;
- Investing in prison accommodation.

Each of these is dealt with separately below. The government intends the budgets of the criminal justice system departments to grow at rates well in excess of anticipated inflation this financial year (2001/2) and for the two years following. The increasing allocations to the individual departments are intended to fund the spending programmes outlined below.

Department of Safety and Security (SAPS)

- The recruitment of additional staff to stabilise the size of the establishment;
- The implementation of a special salary dispensation for police officers which will see police officers receiving an additional 3 to 4 per cent annual increase in 2001/02 relative to all other civil servants;
- The purchase of new vehicles to improve police responsiveness;
- The financing of the costs of the Automated Fingerprint Identification System;
- The maintenance and upgrading of police stations.

Department of Justice and Constitutional Development

- The recruitment of additional staff in the Directorate of Special Operations and the Prosecution Service;
- Improving the salaries of judges and some magistrates;
- The financing of TRC reparations;
- The improvement of the solvency of the Legal Aid Board while also managing the transition of legal aid to a public defender model;
- The implementation of IT systems, and the provision of IT equipment to members of the Department.

Department of Correctional Services

- The financing of the operational costs associated with the rapid rise in prisoner numbers
- The provision of more prison space over the medium-term

Independent Complaints Directorate

- The employment of a Chief Financial Officer.

The 2001 Budget thus reflects significant additional resources allocated to the criminal

justice departments.

These allocations, coming as they do, on the back of the rapid rise in spending on criminal justice over the past decade, are a reflection of the seriousness with which government views South Africa's high levels of crime and low levels of prosecutorial success, as well as the pressures confronting the prisons.

4. Policy and Operational Priorities in Key Institutions of the Criminal Justice System

4.1 South African Police Service

As indicated above, the SAPS has developed and begun to implement a three-year operational strategy to combat crime in a number of "hot-spot" areas.

This strategy is guided by the prioritisation of selected crime priorities and the organisation's internal transformation priorities.

Crime priorities

The crime priorities receiving attention in the SAPS strategy are:

- ***Organised crime*** - This is, potentially, a sophisticated approach, reliant on excellent intelligence-gathering and investigation, which seeks to target the criminal organisations responsible for much of South Africa's crime problem, instead of pursuing individual offenders in respect of each incident of crime. The primary focus is on criminal organisations involved in drugs, firearms and vehicles. The other focus areas are corruption and commercial crime.
- ***Serious and violent crime*** - The focus here is on the proliferation of firearms, (as this impacts on murder, armed robbery, heists and hijacking), developing geographically-specific strategies in the high crime areas of South Africa, urban terrorism and policing major public events.

The strategy is implemented using a geographically-specific approach which targets and attempts to 'stabilise' specific police station areas in which the bulk of serious and violent crime is reported, largely using saturation policing methods informed by prior intelligence. An innovative multi-disciplinary police approach is being developed, which sees a range of police units working together in an integrated fashion, sharing information and resources. In addition, the SAPS are embarking on some 'cross-cutting' strategies intended to support their efforts both on organised crime and in the high-crime areas. These include:

- The location and arrest of wanted persons;
- The arrest of illegal immigrants who are involved in organised crime;
- Controlling the inflow of weapons across South Africa's borders;
- Preventing the theft, loss and abuse of legal firearms. (New demands are being placed on the SAPS related to the implementation of the Firearms Control Act).
- Tracing lost and illegal firearms (Again, the implementation of the Firearms

- Control Act will impact on this);
- Crimes against women and children - very little information is available on the SAPS' approach to these crimes; but it is likely that they will continue to focus on victim empowerment as the key method of dealing with these crimes. Two key challenges facing the SAPS are the effective implementation of the Domestic Violence Act and the Child Justice Bill (when it becomes law).

Organisational priorities

To enable the SAPS to deliver on this strategy, internal organisational reform is required. To this end, a further set of strategic priorities have been identified. These are:

- ***The Service Delivery Improvement Programme (SDIP)*** - which builds on earlier attempts at police reform and on the White Paper on the Transformation of the Public Service. It includes: community policing; human resource development; optimising utilisation of physical resources; compilation of 'profiles' for each station area; diagnosis of internal problems at each police station; development of service charters at police stations, and, monitoring levels of service according to agreed indicators.
- ***Improved budgeting and resource management*** - to optimise the balance between personnel expenditure and operational expenditure, as well as optimising the utilisation of the SAPS' physical resources (such as vehicles);
- ***Improved human resource management*** - which includes optimising personnel utilisation; developing and implementing effective human resource policies; developing human resources (training); implementing affirmative action policies; institutionalising performance management systems; institutionalising a professional ethos; and, developing and implementing an Employee Assistance programme.

The SAPS intend to integrate these organisational approaches with the crime-combating approaches. However, given that the implementation of the strategy has so far focussed on high-density search, seizure and arrest operations, perhaps the greatest challenge will be to ensure the financial sustainability of the strategy over the three years of its implementation.

4.2 The Department of Justice and Constitutional Development

The Department of Justice has come under increasing pressure in recent years to improve the efficiency of the courts and reduce delays and backlogs in criminal cases. The problems in court administration have been exacerbated by the increased numbers of suspects arrested by the police in recent years.

The main role-players in the court system and the administration of justice in South Africa are:

- Judicial officers – magistrates, judges and lay assessors
- The Department of Justice
- Prosecutors – the National Prosecuting Authority.⁵

The Department of Justice has recently been through a major process of restructuring, which was informed by the government's overall strategy for improving public service performance and efficiency. The restructuring is intended to enable the Department to focus on the following core activities:

- Court services (court management, systems and infrastructure)
- Legal Services (legal advice, legal drafting and state law advisors)
- Masters division (estates and insolvency);
- Human Resource Management;
- Publications and Media Liaison; and,
- Information Technology.

The restructured department will function like a business, made up of a number of "business units" and will be overseen by a "Board of Directors" made up of the following executive members:

- The Director-General of Justice
- The Managing Directors of each of the business units within the Department
- The Judge President
- The Chair of the Magistrates Commission
- The Director of Public Prosecutions
- The Chairperson of the Legal Aid Board
- There will also be a number of non-executive members drawn from business, the legal profession, the state treasury and the Department of Public Service and Administration.

The new approach of the Department of Justice represents a significant improvement over previous attempts to transform the justice system in South Africa. It reflects significant recent investment in the justice component of the criminal justice system by both government⁶ and by Business Against Crime,⁷ arguably government's key civil society partner in the criminal justice reform effort.

Each business unit is in the process of finalising its business plan, for implementation in the new financial year.⁸ By way of example, the business plan for the Business Unit: Court Services is likely to include the following priorities (among others):

- ***Planning, Research and Information Management*** - ensuring equitable geographical distribution of courts; developing a court management information system; developing a set of court performance indicators; monitoring implementation and performance of court-related legislation; and developing a process to assess and implement means of alternative dispute resolution, community courts and specialist courts.
- ***Family, child, and youth services management*** – to focus on implementation of the Child Justice Act; implementation of the Maintenance Act; implementation of the National Programme of Action for Children; and, enhancing efforts to make the courts child-friendly.
- ***Facilities, provisioning and infrastructure management*** - this will include: building of new courts in under-resourced areas; upgrading of court buildings;

providing security at all courts; provisioning of equipment to all courts and, ensuring effective asset management.

- **Information technology management** - to include: establishing an IT infrastructure in all court-related offices; re-engineering of manual business processes; implementation of automation of court processes; improving computer literacy among court officials; and, provision and maintenance of IT infrastructure and systems.
- **Client interface and communication management** – to focus on educating court users; community outreach programmes; and effective internal communication.

4.3 The National Prosecuting Authority

South Africa's new constitution required the establishment of a new prosecuting authority for South Africa. In 1998 parliament passed the National Prosecuting Authority Act to give effect to the constitution and to spell out the details of a new prosecutorial system for the country.⁹

The structure of the national prosecuting authority consists of the office of the national director, and the offices of the prosecuting authority at the high courts.¹⁰ The office of the national director consists of the national director of public prosecutions (NDPP) who is head of the office. Three deputy national director posts are responsible for the following:

- **The offices of the prosecuting authority** - at the seat of each of the ten divisions of the high court in South Africa, and one for the Witwatersrand local division of the high court. The deputy national director responsible for the offices of the prosecuting authority also heads "special projects" in the office of the national director. This is comprised of the Sexual Offences and Community Affairs Unit (SOCA Unit), the Court Management Unit (CMU), a Representations and Legal Policy Unit, and a unit dealing with extradition proceedings.
- **The Directorate of Special Operations** - also known as "the Scorpions".
- **The Asset Forfeiture Unit** - The AFU assists the Directorate of Special Operations and the offices of the prosecuting authority in the use and application of South Africa's asset forfeiture legislation.

The current priorities of the NPA are:

- **Improving the quality of performance by prosecutors** - this includes reducing delays and backlogs in the disposal of cases.
- **Fighting organised crime** - the Scorpions are committed to bringing down at least five major crime syndicates this year; and the Asset Forfeiture Unit is aiming to seize R250 Million from criminals.
- **Developing a service culture in the NPA** – this priority includes ensuring customer satisfaction; creating mechanisms that prevent secondary victimisation; ensuring that customers understand the services provided by the NPA; and ensuring that NPA services are accessible to all who require them, particularly the previously disadvantaged.¹¹

The NPA has participated in the business planning process of the Department of Justice

(referred to above), and has enthusiastically adopted a more business-like approach to its work. In line with this, the NPA has this year prioritised the development of management capacity and is developing a long-term plan to attract and retain skilled personnel to the prosecution service.

Further, at a more recent briefing, the National Director of Public Prosecutions indicated that, having emerged from a strategic planning session in December last year, priorities in addition to those developed for the whole NPA include:

- Improving access to courts - to create 50 additional courts by June this year
- Continue the "Rescue Missions" - which are aimed at reducing case backlogs at specific courts and which were successfully implemented in Umtata and Mmabatho in 2000.
- Recruitment – of experienced attorneys to assist training the NPA's new prosecutors
- Enhance the Witness Protection Programme – by rationalising criteria for eligibility and risk assessment and improve the service offered by the programme.¹²

The key challenges facing the criminal justice sector, from the NPA's perspective, are:

- Building human capacity in the NPA and throughout the criminal justice system;
- The need to infuse a human rights perspective in the NPA;
- To tackle organised crime syndicates;
- To tackle to abuse of women and children;
- To ensure fair processes and respect for human rights in trial procedure; and,
- To tackle to problem of corruption in the criminal justice system.¹³

4.4 The Directorate of Special Operations

The Directorate of Special Operations, popularly known as the Scorpions, was launched by the Minister of Justice in 1999. This Unit falls within the National Directorate of Public Prosecutions (NDPP) and therefore under the budgetary and political responsibility of the Department of Justice.

The Directorate is intended to "provide a supplementary national resource for law enforcement".¹⁴ The mandate of the Directorate is derived from recent amendments to the National Prosecuting Authority Act of 1998 and, is essentially, to focus on: "offences or any criminal or unlawful activities committed in an organised fashion; or "such other offences or categories of offences as determined by the President by proclamation in the Gazette."¹⁵

The "organised fashion" of the crimes the Scorpions is also defined in the Act. These include: "... the planned, ongoing, continuous or repeated participation, involvement or engagement in at least two incidents of criminal or unlawful conduct that has the same or similar intents, results, accomplices, victims or methods of commission or otherwise are related by distinguishing characteristics."¹⁶

A Parliamentary briefing in December last year outlined possible focus areas for the Scorpions which included organised crime, terrorism, serious economic crime, corruption

in the criminal justice system and individual high profile cases.

4.5 The Department of Correctional Services

The Department of Correctional Services is responsible for providing the correctional system in South Africa, including prisoner rehabilitation, release, parole and re-integration.

The key challenges facing the department in recent years have been:

- Prison overcrowding;
- Corruption among department personnel;
- An inability to provide rehabilitative and development services to offenders;
- AIDS and HIV in prisons – among both officials and prisoners; and,
- Providing safe custody for juvenile offenders - which is really a responsibility of the Department of Welfare.

As indicated above, the primary issue facing the Department of Correctional Services is that of over-crowding. The strategies being adopted to address this include:

- ***Prison-building by government*** – nine new prisons have been opened since 1994 and two more will be commissioned this year.¹⁷ The Estimates of National Expenditure appear to put the cost of prisons at about R500 million per 3 000 bed prison. However, there is a growing recognition in government that "we will never be able to build ourselves out of our overcrowding problems. We need to look beyond old customs and find new ways of solving problems".¹⁸
- ***Prison-building through public-private partnerships*** – construction on the Mangaung Maximum Security prison and one in the Northern Province began in 2000.¹⁹ The Department's "Asset Procurement and Operating Partnership System" (APOPS) is a pioneer in public-private partnerships in the criminal justice system.
- ***Electronic monitoring of sentenced offenders*** sentenced to home confinement, which is expected to be operational countrywide by the end of March 2001.²⁰
- ***Early releases*** - of prisoners sentenced for petty offences.
- ***Reducing the number of awaiting trial prisoners*** - held in prisons, through improvements in efficiency in the courts, prosecution and police sectors.²¹

A growing body of research into crime (and especially violent crime) shows that repeat offending is a key feature of the crime problem in South Africa. However, the 1996 National Crime Prevention Strategy did not address issues of rehabilitation, re-integration and re-offending; which are now being recognised as crucial to the prevention initiative.

In June 2000, the Minister of Safety and Security stated that the "successful implementation of the (SAPS') strategic and operational plan hinges, in the main, on a tighter consolidation of the criminal justice system. That means ... [inter alia] ... *an elaborate system of rehabilitation of offenders*".²²

However, senior prison officials acknowledge that "rehabilitative and development services are at present adversely affected by overpopulation in our prisons and by the shortage of

human resources".²³ Preventing repeat offending has become one of the key challenges for crime prevention in South Africa.

4.6 Municipal policing and crime prevention

In 1998, the South African Police Services Act was amended to allow for the establishment of municipal police forces.

So far, two of South Africa's major metropolitan cities - Durban and Johannesburg - have established Metropolitan Police agencies, to be responsible for:

- By-law enforcement
- Traffic enforcement
- Crime prevention (a responsibility they share with the SAPS).²⁴

The city police agencies will be relatively small – for example, Johannesburg launched its Metro Police Department with 700 personnel, whereas the SAPS deploy approximately 10 000 personnel in greater Johannesburg. This is largely due to financial constraints in the city administrations and the need to incrementally build experience in city-level policing. They have a limited mandate – they will not conduct investigations into offences, but merely hand over complainants, suspects and information to the SAPS.

Despite this, the role of the Metro police forces in enforcing traffic laws and local by-laws could be critical to safety and quality of life in South Africa's cities. Some of their enforcement responsibilities are:

- Management of taxis in the metropolitan areas
- Squatting and illegal land use (illegal hostels, food outlets and schools)
- Building control (decaying buildings which become unsafe)
- Health regulations (concerning food preparations, conditions in creches)
- Dumping and litter regulations (dumping in sensitive environmental areas)
- Street trading (hawkers).

Two key challenges present themselves to the municipal police. One is to clarify the "crime prevention" roles of the municipal police, the SAPS, and other officials in the city administrations such as town planners, health workers and social workers. The second is the creation of mechanisms for co-ordination of the activities of the various agencies at municipal level. So far, no local authority has successfully been able to do this.

The main reason for the absence of co-ordination at local level is that each of the role-players reports to different tiers of government, and this causes problems of accountability. For instance, the SAPS is a national government department, and local SAPS commanders report to their Area and Provincial Commissioners. The Department of Justice is similarly a national department, and the magistrates and prosecutors report to various structures at national or regional level. But the departments of Welfare, Education and Health operate mainly at provincial government level.

It therefore becomes extremely difficult for the officials of a local municipality to call

officials from other departments to account for their participation (or lack of it) in local-level safety strategies.

As indicated above, the 1998 White Paper on Safety and Security also envisaged local authorities playing a lead role in initiating and developing social crime prevention programmes in their municipal areas.²⁵ Very few municipalities have pursued this, due to lack of funds and expertise.

However, in some of South Africa's largest cities, a "Safer Cities" model has been adopted, based on the models developed in the UK and Europe. These have failed in most instances - except Durban, where the city administration ensured that the Safer Cities process was closely tied to the city's overall development planning process, and that it was well-resourced. In Johannesburg and Cape Town the "Safer Cities" programmes have been abandoned or have changed significantly from the initial concept.

It appears that the major limitations to cities participation in, or leadership of, social crime prevention initiatives are:

- Lack of experience or appropriately-skilled human capacity to embark on social crime prevention programmes;
- Lack of financial resources to support social crime prevention programmes, in the "seed funding" or start-up phase;
- Lack of understanding of and or commitment to social crime prevention on the part of decision-makers (both elected councillors and officials);
- The prevailing view that crime prevention is the responsibility of the SAPS or the criminal justice departments, and not of local authorities;
- A preference to invest in law enforcement approaches over prevention.

4.7 Victim policy

As a result of the emphasis place on the empowerment of victims in the 1996 National Crime Prevention Strategy, the government's Victim Empowerment programme (VEP) was initiated in September 1998, with a special focus on women and children. The programme is co-ordinated by the Department of Welfare, with officials from departments of Health, Correctional Services, Justice, Education and SA Police Services.

The programme has initiated over 100 projects. The majority of these focus on the creation and maintenance of "one-stop service centres", which provide a range of services for victims at one particular site.

A recent area of focus within the VEP has been on preventing secondary victimisation of victims of domestic violence, in light of the implementation of the Domestic Violence Act.²⁶ This has required the training of a range of government officials in techniques for dealing with victims of domestic violence, and in the new legal procedures. Much of the training is provided by NGOs and focuses on service delivery issues like counselling, provision of shelters and the provision of legal advice.

4.8 Juvenile Justice policy

A project committee under the auspices of the South African Law Commission presented a draft "Child Justice Bill" on juvenile justice to the Minister of Justice in August 2000. Briefly, the objectives of the legislation are to promote the procedural rights of children, through:

- fostering of children's sense of dignity and worth;
- reinforcing children's respect for human rights and the fundamental freedoms of others by holding children accountable for their actions and safe-guarding victims' interests and the interests of the community;
- supporting reconciliation by means of a restorative justice response;
- involving parents, families, victims and communities in child justice processes in order to encourage the reintegration of children who are subject to the provisions of this Act; and,
- promoting co-operation between all government departments, other organisations and agencies involved in implementing an effective child justice system.

The proposed new system places a great deal of emphasis on diversion, particularly within the first 48 hours, and the draft Bill sets out a range of diversion options, listed in three levels depending on the intensity of the required programme.

Those children who are not diverted (either because they indicate that they intend to plead not guilty to the charge, or because the particular circumstances surrounding the child or the case make diversion inappropriate) will proceed to plea and trial in a Child Justice Court.

The Bill includes a wide range of sentencing options, including non residential or community based sentences, sentencing involving restorative justice concepts such as restitution and compensation to the victim, and finally, sentences involving a residential element. The Bill makes it clear that imprisonment of child offenders should only be used as a measure of last resort and then for the shortest possible period of time.

Despite the intentions of the Department of Justice, the Bill has not been presented to Cabinet or certified by the state law advisors in June, or heard in Parliament. One of the reasons for this is the major cost implication that the new policy will have.

4.9 Drug policy

The South African government published its National Drug Master plan in 1998. It identifies drug abuse problems in South Africa in the following order of severity:

- Alcohol and tobacco are the most extensively abused substances, followed by marijuana and mandrax.
- "Moderately abused" substances - crack cocaine,²⁷ powder cocaine, heroin, speed, LSD, hashish and ecstasy.
- "Less frequently abused" substances - opium and fully synthetic drugs.

The Plan aims to bring about the reduction of substance abuse and its related harmful

consequences in South Africa. The Plan notes that: "in order to address the drug problem effectively, however, there should be a balance between actions which bring about a decrease in the availability of drugs (control and law enforcement) and the demand for drugs (prevention, treatment and rehabilitation)."²⁸

To achieve these aims, the Master Plan identified six focus areas:

- **Crime control** – law enforcement, reduction of drug-related crime and drug use in prisons.
- **Youth** – drug education and treatment for young people.
- **Community health and welfare** – public education and treatment.
- Research and information dissemination – based on relevant local and international information.
- **International involvement** – international agreements and regional co-operation.
- **Communication** – to ensure the appropriateness of educational material.

A Central Drug Authority has been established, which oversees the implementation of the Plan. It consists of representatives from a range of government departments, NGOs, the National Youth Commission, Business Against Crime and the Trade Union movement.

There is a growing civil society awareness around the dangers of alcohol and drug abuse, and initiatives from within civil society to counter these. These initiatives are often coupled with public education initiatives from both government and independent organisations. However the National Drug Master Plan has yet to take root as a key component of government's crime prevention policy, perhaps as a result of it being managed in a process entirely separate from the NCPS, or perhaps because the Department of Welfare is not part of the Justice Cluster in Cabinet.

4.10 The SA Law Commission

The SA Law Commission is a statutory body responsible for research and drafting legislation, on a mandate from the government. The areas on which the commission works are laid down in an annual "law reform programme" approved by the Minister of Justice. (The Law Commission is not the only legislation drafting agency used in government, as most departments have their own legal advisers, but it is used only to work on very complex legal questions).

The Commission is made up of a number of part-time legal experts, and has a full-time staff of administrators and researchers. It conducts research on a range of legislation, not only in the field of criminal justice. In recent years, it has completed some work in criminal justice, such as juvenile justice and the right of the Director of Public Prosecutions to appeal on questions of fact.

Its current programme includes the following issues related to criminal justice:

- The simplification of criminal procedure to reduce delays and streamline appeal procedures
- The harmonisation of the Criminal Procedure Act with the Constitution

- Sentencing (including victim compensation)
- Security legislation (including issues such as "bugging" and terrorism)
- Sexual Offences
- Computer-related crime
- Legal aspects of HIV/AIDS

5. Support Programmes for the Criminal Justice System

This section provides a brief descriptive analysis of support services in respect of:

- Financial management
- Staffing the Criminal Justice System
- Human resource development
- Information Technology (IT) within the CJS
- Infrastructure for the criminal justice system

5.1 Financial management

The implementation of the new Public Service Regulations on the 1st of July 1999 and the Public Finance Management Act (PFMA) on the 1st of April 2000 is part of government's effort to deepen the modernisation of the public service.

The rationale behind the PFMA is to allow accounting officers to manage their budgets more directly and therefore to build responsibility and accountability and, through this, to speed up service delivery.

Thus, the Public Service Regulations (Government Gazette, N0.6544 No.R. 679) of 1999 obligate the accounting officer to prepare and present strategic plan which states the objectives of the department, describes the core and support activities required to achieve these objectives, specifies the functions the department will perform internally and those it will outsource and sets out a programme for attaining specified goals and targets.

Further, to meet these goals and targets, each department is to prepare a Service Delivery Improvement Programme which specifies the main services to be provided to various customers, consultation arrangements, how the department intends to improve access to its services, standards for the main services provided by the department, stipulating how information of the department services is to be shared and, stipulating a means to address complaints.

These two plans form the basis for motivating a budget from parliament.

Further, the PFMA, provides for stringent penalties for those accounting officers who either do not keep proper financial records, ensure that their budget are spent in accordance with the vote of the department, that is, on the approved priorities of the department, or who do not submit an annual report of the activities and expenditure of the department.

These measures indicate a real emphasis in government on adequate financial control.

5.2 Staffing the Criminal Justice System

From a budgetary perspective, the most important trend evident from spending decisions over the past decade is the very rapid growth in expenditure on personnel and, in particular on the remuneration of personnel. Even adjusting for inflation, real average remuneration in the SAPS rose by about 30 per cent between 1995/96 and 1998/99 as personnel numbers fell and budgets rose.²⁹

These increases, reflecting a series of decisions on promotion policies, the redressing of past discrimination in promotions and changes to basic salaries, as well as the rapid rise in medical costs, have had two effects - a reduction in personnel and a squeeze on expenditure on non-personnel items.

This trend has, to some extent, already been moderated by spending decisions made in the past two or three years, and will be further moderated over the period 2001/02 to 2003/04. This will see a renewed emphasis on spending on personnel, as well as a reduction in the rate loss of staff. Indeed, in the budgets of the SAPS and of the Department of Justice and Constitutional Development, resources have been earmarked for the employment of additional staff. At the same time, resources have also been earmarked for the raising of the salaries of police officers, magistrates, judges and prosecutors.

It is apparent that, although the number of personnel available to do the work of the criminal justice system will be increased modestly, government believes that the role of remuneration levels in the proper recruitment, retention and motivating staff is important enough to warrant allocation of additional resources. Presumably, it is for this reason that additional resources were allocated to the SAPS to fund salary improvements for the police, after Cabinet had agreed that there was a need to establish a special salary dispensation for police officers.

However, the fact that in relation to the South African population and in relation to recorded crime levels, the staffing of the criminal justice system (especially the SAPS) has fallen, is cause for concern.

5.3 Human resource development

The White Paper on the Transformation of the Public Service (WTPS) argues that the effective mobilisation, development and utilisation of human resources is an important transformation goal. Linked to that, it argues that the success of the transformation process will lead to more effective forms of governance. It concentrates on the elevation of the role and status of human resource development within the overall framework of government policy and on the introduction of effective systems of staff development and training for all public servants, within the context of a national training strategy.

Since the publication of the WTPS, a number of additional policy papers and documents have been produced by the Department of Public Service and Administration which have an important bearing on human resources management and development in the public service as a whole, including the criminal justice cluster.³⁰

Each department is developing its own human resource development strategy, and each budget contains allocations for this purpose. In cluster-wide processes such as the Integrated Justice System programme (IJS), development of personnel in the Department of Justice has been prioritised - the IJS projects include R21 million for human resource training in the Department of Justice.

5.4 Information systems

As part of the IJS initiative, the criminal justice system is undergoing radical change in information systems, management, and technology. This will link the information systems of the various criminal justice Departments. Its 'court process project' will also provide for the automation of civil and criminal courts, maintenance and bail systems, State Attorney's offices and the Guardians Fund.

5.5 Infrastructure for the criminal justice system

The total budget for equipment (capital goods other than infrastructure including vehicles, computers, fax machines, etc.) and inventories (consumable items such as paper, petrol, etc.) in the criminal justice system has grown by 14.4 per cent a year between 1997/98 and 2001/02. This broad average conceals the fact that the growth in these budgets is confined to the years 2000/01 and 2001/02, with very modest growth before these years and, in some cases, negative growth.

CJS Departments: Spending on inventories and equipment (1997/98 to 2003/04)										
R millions	1997/8	1998/9	1999/0	2000/1	2001/2	2002/3	2003/4	7 year annual change	Annual change (1997/8 -2001/2)	Annual change (2001/2-2003/4)
SAPS										
Inventories	671	683.8	697.6	868.3	985.5	1,014.2	1,032.4	7.4%	10.1%	2.4%
Equipment	406.1	430.1	437.4	552	671.5	721.1	751.6	10.8%	13.4%	5.8%
Total	1,077.1	1,113.9	1,135	1,420.3	1,657	1,735.3	1,784	8.8%	11.4%	3.8%
Justice										
Inventories	31	42.5	37	63.3	57.7	54.3	56.5	10.5%	16.8%	-1.0%
Equipment	54.6	60.9	48.1	87.8	181.2	217.5	237.1	27.7%	35.0%	14.4%
Total	85.6	103.4	85.1	151.1	238.9	271.8	293.6	22.8%	29.3%	10.9%
Corrections										
Inventories	335.5	400	430.3	537.8	546.5	550.4	593.9	10.0%	13.0%	4.2%
Equipment	51.4	181.6	134.6	140.8	213	152.4	158.3	20.6%	42.7%	-13.8%

Total	386.9	581.6	564.9	678.6	759.5	702.8	752.2	11.7%	18.4%	-0.5%
ICD										
Inventories	0.3	0.4	0.7	0.8	0.8	0.8	0.9	20.1%	27.8%	6.1%
Equipment	2.4	3.9	1.3	1.1	1	1.1	1.2	-10.9%	-19.7%	9.5%
Total	2.7	4.3	2	1.9	1.8	1.9	2.1	-4.1%	-9.6%	8.0%
Grand total	1,552.3	1,803.2	1,787	2,251.9	2,657.2	2,711.8	2,831.9	10.5%	14.4%	3.2%

In the next two years, growth in these spending items will continue to be robust, although it will not match the growth rates achieved in 2000/01 and 2001/02.

That said, there is a still unallocated budget for infrastructure on the budget of the National Treasury some of which may be spent on maintaining, upgrading and procuring additional infrastructure for the criminal justice system departments.

These trends suggest that government has begun to redress the decaying state of the supportive infrastructure of the criminal justice system, with far more attention being devoted to the provision of the necessary equipment and inventories required for members of these departments to do their work.

6. Oversight and the "Chapter 9 Institutions"

The bodies which are involved in oversight of, and investigation of complaints about, the criminal justice system are:

- The Human Rights Commission
- The Gender Commission
- The Magistrate's Commission (magistrates only)
- The Public Protector
- The Independent Complaints Directorate (SAPS only)
- The Independent Investigating Judge (prisons only)
- The Portfolio Committees in Parliament and the National Council of Provinces

However, with the exception of the Auditor-General and, in the case of the police, the Independent Complaints Directorate and the Portfolio Committees, there appears to be a very limited systematic engagement, if any at all, by the institutions of oversight with the departments of the criminal justice system.

Indeed, even with the Portfolio Committees, interviews with senior officials in the criminal justice departments indicated that the officials experience engagement with these as generally supportive, and there have been no significant conflicts between the legislature and the executive, except perhaps in the areas of finance and expenditure controls.³¹

The Human Rights Commission did announce its intention to conduct an investigation into racism in the criminal justice system, but this appears to have been abandoned.

However, for purposes of this report, perhaps the most relevant institution is that of the Independent Complaints Directorate (ICD). If this can be considered as a case study in the challenges of independent oversight of criminal justice agencies, a number of problems are evident:

- ***Lack of resources to carry out its mandate***: the number of complaints reported to the ICD in the last two financial years increased by over 50%, yet the ICD's budget did not increase by a similar amount. Towards the end of each financial year, the ICD's operations come to a virtual standstill due to lack of funds to cover items such as telephone bills, vehicle fuel and maintenance.
- ***The ICD lacks an organisational presence*** across South Africa, with some areas being severely under-serviced;
- ***Weak recording systems*** - keeping adequate records and databases is not possible within the budget constraints;
- Implementation of the Public Finance Management Act within the ICD - and the need to monitor expenditure and report to various government bodies, is likely to place particular burdens on the ICD.
- ***Implementation of the Domestic Violence Act*** – created new responsibilities for the SAPS, and, hence, new burdens on the ICD for monitoring police compliance.

There are clearly severe constraints on the effective functioning of the ICD, and these are likely to affect some of the other oversight bodies relevant to the criminal justice system.

7. Civil Society Initiatives

7.1 Non-government organizations

The results of a survey³² of NGOs active in the criminal justice sector found that:

- There is a vibrant NGO community functioning in the safety, security and access to justice sector in South Africa
- However, many NGOs working in this sector are struggling to find funding - some have closed valuable projects due to lack of support
- Much NGO work in this sector is already done in partnership with other NGOs and with government
- Much NGO work is conducted at the local or provincial level.
- NGO work is seldom evaluated for impact - it is especially difficult to do longitudinal impact assessments. The lack of evaluation is largely a consequence of donor reluctance to fund meaningful evaluation.

7.2 Business organizations

One of the distinctive features of the South African criminal justice landscape is the strong participation of the organised business community in efforts at improvement.

The Business Trust

The Business Trust was established in 1999, out a dialogue between business leaders and President Mbeki about how best business could contribute to solving the key challenges

facing South Africa. These challenges were identified as:

- The need to develop tourism
- The need for job creation
- The need for human capacity and skills development

The Business Trust was established with a planned life-span of 5 years to focus on these issues through the implementation of projects. It raises funds from the business community in South Africa to deploy in such projects. It operates as a small management unit, contracting with strategic partners who implement the agreed projects.

The key project supported by the Business Trust is the IJS initiative which is facilitated by Business Against Crime (BAC).

For the Business Trust, the key challenges facing the criminal justice system in South Africa are:

- improved police training in investigative skills
- improved management, prioritisation and allocation of cases in court
- to improve the link between police investigators and prosecutors
- consistency and severity in sentencing
- deal with prison overcrowding
- reduce recidivism and repeat offending
- develop leadership for the IJS cluster

Business Against Crime

BAC was established in response to former President Mandela's request for the private sector to partner government in combating crime and the causes of crime. It is a not-for-profit company that is funded by private sector sponsorships and donations. BAC supports the government as facilitator, capacity-builder, enabler, consultant and project manager on various projects aimed at providing solutions to high-priority crime problems.

BAC's current programmes are:

- ***Support to the IJS initiative*** – through project facilitation aimed at streamlining the criminal justice process, removing blockages, and improving its overall functioning, for instance, the recent assistance to the process of re-structuring the Department of Justice.
- ***Support to the SAPS' Service Delivery Improvement Programme (SDIP)*** - which grew out of a pilot programme in which BAC partnered local police stations (the "support partnership to police stations" programme).
- ***Surveillance*** - this programme aims to improve methods of police surveillance, thus assisting to prevent crime and apprehend offenders. It is largely focussed on the development of urban closed circuit television (CCTV) systems. The programme was developed in Cape Town and is being extended to other major South African cities. BAC is now writing a "national standards" document capturing best practice and lessons learned about CCTV.
- ***Commercial Crime*** - this programme aims to counter the fragmented efforts of the

criminal justice system in dealing with widespread commercial crime in South Africa, to assist with development of case management systems and to improve levels of knowledge and skill in the process through training. BAC has piloted a new approach to commercial crime in Pretoria.

- **Organised Crime** - although BAC has identified four categories of organised crime as priorities (vehicle crime, illicit drugs, corruption and firearm crime), it has thus far developed an intervention against vehicle crime which has utilised business expertise to address this issue.
- **Thisa Thuto** - is BAC's social crime prevention project, which operates in partnership with a range of government and NGO partners to strengthen education and create safer school environments in forty schools in Gauteng.

BAC has become a key roleplayer in criminal justice reform at the national level through its involvement in the IJS initiative. Its partnership with government is not without problems, but participation of organised business in criminal justice reform in South Africa is unique in the world.

7.3 Community-Police Forums (CPFs)

Community Police Forums are structures created by South African policy and legislation to facilitate sound police-community relations; they are intended to be a significant vehicle for the implementation of the government's community policing policy and, therefore, for civil society participation in the criminal justice system.

Recent research conducted by the ISS (for SAPS and DFID) found that due to a lack of systemic and meaningful support, public engagement with these structures is severely limited, as is the ability of these CPFs to engage with their legislative and policy mandate.

This appears to have been recognised by the Department of Safety and Security – the Minister of Safety and Security recently announced what may be a significant re-invention of these structures. Minister Tshwete announced that: "As part of our overall drive to bring communities on board, a single structure between communities and the relevant Cluster Departments will be established to ensure an integrated approach to community involvement in the integrated justice system. This will mean an integration of Community Police Fora and the liaison structures of other departments with communities."³³

However, recently published "Interim Regulations" on the functioning of the CPFs do not appear to address the manner in which this change is to take place, save for instructing the CPFs to develop Community Safety Plans. Further, these interim regulations, which focus almost wholly on the setting-up of the structures, do not address the key issues that have challenged the CPFs since their establishment – namely, clarification of their roles and functions and state support. Indeed, the interim regulations simply endorse the contradictory and ambiguous functions set out in the South African Police Service Act (No. 68 of 1995) and explicitly limit supportive interventions by state departments.

Therefore, unless the interim regulations are substantively revised in a more permanent framework, the CPFs are not likely to be able to improve their potential to contribute meaningfully to the delivery of safety and security in the short-term.

8. International Donor Assistance

8.1 The extent of donor assistance to the Criminal Justice System

The following table sets out the level of donor funding to government criminal justice system programmes over the past 6 years, based on available information from the National Treasury.

It appears that only the police and the Department of Justice have received any support, and that it is Justice which has benefited most from the donor community. That said, much of the support to Justice has been for its non-criminal justice activities – the Human Rights Commission, the Gender Commission and the Truth and Reconciliation Commission.

Donor support for the criminal justice system (1995/96 to 2000/01)						
R thousands	1995/6	1996/7	1997/8	1998/99	1999/0	2000/1
To SAPS						
Community policing	1,641		4,226		5,510	5,060
Eastern Cape				3,332	255	7,666
Other					3,123	
Total	1,641	0	4,226	3,332	8,888	12,727
To Justice						
Training	390				824	1,314
TRC		12,519	6,741	2,359		685
Rationalisation and transformation	1,613	2,943	5,800	714	9,012	2,676
Modernisation			33	10,764	14,375	34,199
Gender Commission			1,217	2,371	3,374	
SAHRC			101	250		436
Other	447	482	744	624	10,993	2,998
Total	2,451	15,944	14,636	17,082	38,578	42,308
To DCS	0	0	0	0	0	0
To ICD	0	0	0	0	0	0
Total	4,091	15,944	18,862	20,414	47,466	55,034
Total donor support	134,521	137,049	257,184	517,410	451,148	578,011

The table also indicates that, over the past two years, donations to the criminal justice system have amounted to about 10 per cent of the total amount transferred to government

by donors overall. This is significantly higher than was the case in previous years, which suggests that donors are concerned about problems in the criminal justice system in South Africa.

8.2 Donor experience with CJS departments

In the research that informs this paper,³⁴ it became clear that the experience of donors, was largely dependent on the individuals allocated by the Departments to work on the projects with the various donors. However, many donors referred to inter-departmental and intra-departmental co-ordination as "poor", "lacking", "insufficient" or "weak". The same comments were made of the strategic vision and/or lack of strategic implementation on the part of the criminal justice agencies.

8.2.1 Donor experience of provincial and local government in the CJS field

Most funders have no direct experience of work with provincial and local government departments. Only one respondent to the donor survey had worked with a Provincial Department in the safety, security and access to justice field.

8.2.2 Donor Experience off work with oversight structures

Most funders indicated that they had had some dealings with oversight (Chapter 9) structures, predominantly because of their concern with human rights issues in the criminal justice sector, or in development assistance in general. Their account of their interaction with these agencies was largely positive.

8.2.3 Donor Experience of Working with NGOs/CBOs

The experience of dealing with this sector is mixed. Generally though, experiences appear to have been positive except that the sector appears, in the words of one donor, to have "particularistic interests which hamper a transparent strategic approach".

8.3 Donor's views on challenges facing the SSAJ sector

For donors the key obstacles to effective criminal justice reform in South Africa were identified as:

- Difficulties of co-ordination between different actors involved in the CJS;
- The need to integrating crime prevention as part of development strategies;
- Government's ad hoc responses to crime and criminal justice reform;
- Prison overcrowding;
- Lack of strategic vision on the part of the South African government agencies;
- Lack of institutional approaches and consequently too much personalised policy-making;
- Lack of balance between crime prevention strategies reflecting the citizenry's crime concerns on the one hand, and, on the other, the emphasis on high visibility political concerns;
- Lack of competence and motivation in the lower ranks of the criminal justice agencies;

- Opposition to real transformation in upper ranks of the criminal justice departments;
- The lack of financial and human resources for the criminal justice system;
- Poor planning, implementation, monitoring and management capacity in Department of Justice;
- Inadequate processes at Court level; and,
- Inadequate management of donor funds.

The following were seen by donors to be future challenges for the CJS in South Africa:

- The need to integrate crime prevention as part of an overall development strategy;
- The need to integrate and systematize Government's response to crime;
- Reducing prison overcrowding especially with regard to awaiting trial suspects;
- Dealing with the backlog of cases;
- Development of reliable information systems and criminal justice statistics;
- Stopping the brain drain from the criminal justice departments to the private sector; and,
- Improving capacity and skills in the Justice Department and the Courts.

9. Conclusions

It is clear from the description above that government, perhaps somewhat over-whelmed by the plethora of policy and legislation that it has approved over the past seven years, and in response to growing public perceptions regarding the apparent inability of this policy to make a meaningful impact on crime, has now made strategic choices regarding the parts of its policy it intends to focus on. In doing so, it has defined a more populist agenda that strongly supports a tougher law enforcement approach. To realise this, government has identified significant gaps in the criminal justice system that it intends to fix.

It has thus down-graded the preventative approach advocated in the NCPS and built on in the later White Paper on Safety and Security.

This may be a result of the dynamic which Graeme Simpson describes:

For policy innovation to be effective in a society in transition there has to be at some level an active process of acquiring public support. There is no question that the [long-term crime] prevention agenda is the best vehicle for dealing with violence and crime, but, because we did not have short-term enforcement measures that built popular confidence upfront, the wider prevention agenda was discredited. The people on the ground were not feeling the effect of any short-term safety and security measures. The lesson learnt is not so much about how we strategically defend creative policy intervention, but about how we build the mechanisms which anticipate shifting popular concerns, and build public confidence, at the outset.³⁵

The policy choices and 'priorities' which have been selected in the last two years have emphasised the task of modernising and improving the efficacy of the criminal justice system, at the expense of investment in crime prevention programmes.

The government's leading criminal justice programmes are the IJS initiative and the tough new policing strategy. However, both of these approaches are likely founder because of inadequate human resource capacity within the criminal justice agencies³⁶ and when they encounter apartheid's legacy - the severe inequalities in levels of demand and competence in different parts of the country. Some police stations and courts for not have basic furniture or electricity and will not benefit from the IJS initiative in the foreseeable future.

In addition to these basic capacity problems, the government's approach to criminal justice reform will need to address the following major gaps:

- Recidivism and repeat offending

None of the government policy documents on crime reduction have paid any serious attention to the problems of repeat offending and recidivism. Some estimates suggest that the recidivism rate in South Africa is higher than 66%.³⁷ Anecdotal evidence³⁸ from Pollsmoor prison tells that prisoners from the Maximum Security Section spend, on average, 6 weeks outside prison after their release, before returning to prison because they have committed another offence. 'Rehabilitation' is barely even referred to as a goal of the prison system anymore, because the intense overcrowding makes most rehabilitation or treatment interventions impossible.

In many Western democracies, it has been found that a relatively small group of repeat offenders (mainly young men) are responsible for a large proportion of crime. We do not have the kind of data which would enable that research to be done in South Africa (although the information systems should improve as the various IJS projects come on-line). However, given the inadequate deterrent effect of the criminal justice system, it is reasonable to assume that many offenders in South Africa are committing more than one offence and that their criminal careers may be prolonged.

This is a critical area for new policy and practice. Unless it is addressed, South Africa's prisons will continue to provide 'higher education in crime', and their 'graduates' will fill ever-higher positions in domestic and international criminal hierarchies.

- Diversion: reducing the burden on the criminal justice system

Even if dramatic improvements are made to the efficiency of the criminal justice system, as envisaged by the IJS, its capacity to cope adequately with the number of people it is expected to process will be severely limited. Problems arising from the sheer volume of suspects and convicts in the criminal justice system will be exacerbated by the effects of:

- **Full implementation of the minimum sentencing guidelines** – which will further increase the long-term prison population and the increase the proportion of violent offenders and repeat offenders in the South African prison population.
- **Increasing violence and substance abuse in the prisons** - arising from the stresses associated with prison overcrowding and increasing proportions of violent offenders.
- **The impact of the HIV/AIDS epidemic on the CJS** – both its officials (premature deaths and long periods of sick leave) and on suspects and perpetrators in the

system.

The prisons are terminally overcrowded. None of the government's strategies to reduce the prison population have succeeded, and none are likely to as long as the police pursue a saturation policing approach (and especially as long as they focus on arresting illegal immigrants) and the courts are bound by mandatory sentencing guidelines.

What is needed is new policy and practice which actively encourages diversion of certain cases out of the formal criminal justice system. This could be done by:

- Decriminalisation of certain offences
- More effective diversion of juvenile offenders
- Mediation or alternative resolution of some types of disputes
- Introducing plea bargaining in certain types of cases
- Introducing viable non-custodial sentencing options

- Local government, 'burden-sharing' and unfunded mandates

The idea behind delegating some public safety responsibilities to local government (in the 1998 White Paper on Safety and Security) was that this would reduce the burden on the SAPS and other components of the national criminal justice system. However, the absence of financial support and capacity-building for local authorities has meant that they are unable to assist.

If national government were to devote some serious resources to building local government capacity – for instance in municipal policing, social crime prevention, victim empowerment – then local governments might be able to truly begin to 'share the burden' with the national criminal justice system.

- Improving accountability

South Africa's constitution provides for an accountable public service and criminal justice system. However, accountability has often been viewed as adversarial and has often been politicised. The challenge here is to ensure that accountability becomes viewed as a constructive means of ensuring adequate provision of key services. Here we mean an emphasis on formal democratic accountability – as opposed to the 'community accountability' which was emphasised in the 1990s. Critical mechanisms for accountability such as the oversight role of committees in Parliament and the legislatures and Councils, and the PFMA. Financial accountability for both policy spending and personal decisions by public managers needs to receive greater attention in the criminal justice sector.

Possible activities are:

- ***Assisting criminal justice departments*** – particularly with implementation of the Public Finance Management Act and Treasury Instructions.
- ***Building the capacity of the Portfolio and Standing Committees in Parliament, the NCOP and the Provincial legislatures*** - the elected representatives who make up these bodies need to be able to oversee the massive and complex reform effort

under way in the criminal justice system.

- ***Building the capacity of elected local councillors*** - to oversee new local initiatives in the SSAJ field, especially to ensure value-for-money and adherence to human rights standards in their approaches to crime prevention.
 - ***Support to the Independent Complaints Directorate*** - which deals with public complaints about (and investigates) police abuse of power.
 - ***Support to the Independent Judicial Inspectorate*** - which deals with public complaints about (and investigates) abuses of power and human rights violations in prisons.
 - ***Assisting those in civil society*** - who wish to use legislation such as the Promotion of Access to Information Act (No.2 of 2000) to subject the criminal justice system to scrutiny and/or to bring important legal challenges to the criminal justice system (such as constitutional litigation).
- The gap between policy and implementation: new problems

Most of the current criminal justice reform initiatives fail to take into account the practical cost and capacity implications of significant new policies (such as legislation recently approved or under discussion in Parliament). These new policies, if implemented effectively, will contribute to addressing the needs of some of the most vulnerable groups – for instance, women and children. In the course of this research, few, if any, respondents representing the institutions of the CJS, spoke of the implications for the criminal justice system of the Domestic Violence Act, the Child Justice Bill or the new Firearms Control Act. These pieces of legislation will require significant capacity-building in the criminal justice sector to enable satisfactory implementation. If the human and institutional capacity is not developed quite rapidly, South Africans will once again face the chasm between good policy and the lack of implementation.

Critical challenges are:

- Implementation of new juvenile justice system (as in the current Child Justice Bill) - this is likely to become even more central in the criminal justice system, given the youth demographics of the country and the increasing likelihood of young people becoming involved in crime.
 - Implementation of the Domestic Violence Act - violent crimes against women are endemic in South Africa, and poses a serious threat to development.
 - Implementation of the Firearms Control Act - reduction in firearm crime will reduce levels of mortality and injury related to crime in South Africa, thus reducing the economic and social costs of crime in South Africa. The new Act is complex, ambitious and requires a great deal of support to achieve full implementation.
- A return to crime prevention?

Further, even if dramatic improvements are made to the efficacy of the criminal justice system, this is by itself unlikely to make meaningful impact on crime, safety and security. As American research found in the late 1990s:

For the past twenty years, criminal justice practices have been so profoundly ill-

conceived that they have been bound to fail. As the failures have accumulated, the justice system has responded by adding more of the same policies. Prison and jail populations in this nation have tripled since 1980, and law enforcement expenditures have quadrupled, but polls show that most Americans do not feel safe. Legislatures lengthen sentences and add more mandatory minimum penalties. More police are hired, more prisons built. Still, we do not feel safe. In response, policy-makers continue to expand the same criminal justice apparatus: more enforcement, longer sentences, more prisons. If this 'get tough' strategy worked, the results would be apparent by now. They are not.³⁹

Unsurprisingly, what is required is a return to the holistic and preventative approach first advocated in the NCPS. Simply put, this would mean a greater investment in overtly preventative programmes which could run concurrently with the planned improvements to the criminal justice system.

A greater investment in crime prevention would – in the longer term – have the effect of reducing the number of cases and offenders being seen in the criminal justice process. Much of the existing criminal justice policy encourages multi-agency partnership projects; whether these are aimed at reducing crime or improving the performance of the formal justice system. Useful interventions could focus on:

- Partnerships for safety or crime reduction which involve local authorities (as this is a new policy area in South Africa)
- Partnerships to enhance crime prevention in South African schools
- Partnerships which provide services not provided by government (eg shelters for women and children who are victims of domestic violence)
- Partnerships which focus on the safety of women and children
- Partnerships which reduce the burden on the criminal justice system by providing diversion options
- Partnerships which reduce re-offending

In South Africa, there is significant scope for these partnership approaches, due to the strength of civil society, the experience of implementing community policing, and the wide range of NGOs already active in the sector.

Perhaps our policymakers are already realising the costs of their policy choices. In his Budget Vote in Parliament this year, the Minister for Safety and Security conceded that current SAPS crime fighting methods "have not yielded the desired result". "Let us find an alternative", Tshwete told parliament, "we all underestimated how difficult it would be to transform the SAPS and the whole criminal justice system."⁴⁰

Notes:

¹ A particular lacuna is the absence of interviews with law-makers in parliament, who were repeatedly unavailable for interviews due to their busy schedules. We have attempted to rectify this by using transcripts of parliamentary discussions on relevant issues.

² Justice, Crime Prevention and Security Cluster, Statement for Media Briefing, 2 February

2001.

³ JCPS Development Committee, Priorities JCPS Cluster, Presentation to Cabinet Committee, 18th February 2001.

⁴ These are areas specifically targeted by the President's Urban Renewal Programme.

⁵ Other departments such as the SAPS and the Department of Correctional Services play minor roles such as providing court orderlies, or transporting awaiting trial suspects from prison to court.

⁶ The Justice Department received a 22.5% increase in its budget for the coming financial year, according to the Business Day of 22 Feb 2001; the National Prosecuting Authority a 30% increase, and the DSO/Scorpions a 9.4% increase.

⁷ For example, Business Against Crime has seconded a full-time business executive to work as the Chief Financial Officer in the Department of Justice. Although it is early to assess the impact of this move, it seems likely to be more successful in initiating and sustaining long-term system reform than their earlier secondment of a business person to be the Chief Executive Officer of the SAPS.

⁸ Government's budget year runs from 1 April to 31 March.

⁹ National Prosecuting Authority Act no. 32 of 1998. Most of the Act came into operation on 16 October 1998.

¹⁰ Section 3, National Prosecuting Authority Act no. 32 of 1998.

¹¹ From the address by Bulelani Ngcuka (National Director of Public Prosecutions) at the Pretoria Press Club on 28 February 2001.

¹² From the address by Bulelani Ngcuka at the Pretoria Press Club on 28 February 2001.

¹³ Interview with Pingla Udit, special advisor to Mr Ngcuka, January 2001.

¹⁴ Minister P Maduna in the snap debate on the Directorate of Special Operations, in Parliament, 11 November 1999.

¹⁵ National Prosecuting Authority Act (No. 32 of 1998).

¹⁶ *ibid.*

¹⁷ Minister Ben Skosana's Budget Vote Speech, 9 March 1999.

¹⁸ Minister Ben Skosana's Budget Vote Speech, 9 March 1999.

¹⁹ Minister Ben Skosana's Budget Vote Speech, 12 May 2000.

²⁰ Minister Ben Skosana's Budget Vote Speech, 12 May 2000.

²¹ The average period for which awaiting trial prisoners were incarcerated increased from 76 days in June 1996, to 115 days in June 1998, and 138 days in June 2000.

²² Minister Steve Tshwete, Review Debate on Criminal Justice Cluster in National Council of Provinces, 8 June 2000.

²³ Minister Ben Skosana, 12 May 2000.

²⁴ In both the SAPS Act (Act No. 68 of 1995) and its 1998 Amendment Act (which governs the Metropolitan police agencies), the SAPS and the Metro/Municipal police are given responsibility for 'crime prevention'. Within and between both agencies there is a lack of clarity about what this might actually mean; with the most common interpretations favouring some form of 'visible policing' or police patrol as deterrence or prevention of crime.

²⁵ I.e. non-enforcement approaches – developmental and social approaches to crime prevention.

²⁶ Act No 116 of 1998.

²⁷ The Drug Master Plan of 1998 makes reference the fact that abuse of crack cocaine is growing so strongly that it may be categorised an 'extensively used' substance in the near future.

²⁸ National Drug Master Plan 1998 Chapter 3.

²⁹ While this trend was most stark in the police, similar tendencies were evident in Justice and Correctional Services.

³⁰ The White Paper on Transforming Service Delivery (1997); the White Paper on Public Service Training and Education (1997); the Draft White Paper on a New Employment Policy for the Public Service (1997); the Green Paper on a Conceptual Framework for Affirmative Action and the Management of Diversity in the Public Service (1997); and the Green Paper on A New Law for a New Public Service: Policy Proposals for a New Public Service Statute (1996).

³¹ No interviews were conducted with the Auditor-general or the Standing Committee on Public Finance, due to their inability to make appointments within the timeframes of this review. However, the authors are aware of critical findings by the Auditor-General in respect of various departments in the criminal justice system.

³² Respondents were solicited by advertisements in various media and completed an on-line

questionnaire.

³³ Minister Steve Tshwete Media Briefing in Parliament, 12 February 2001.

³⁴ A questionnaire was sent to donor agencies and a round-table meeting was held with donors active in the criminal justice sector.

³⁵ Simpson G, Hamber B & Stott N, (2001) "[Future Challenges to Policy-making in Countries in Transition](#)". Presentation to workshop: comparative experiences of policy making and implementation in countries in transition, 6th - 7th February 2001, Derry, Northern Ireland.

³⁶ Notably, the IJS has not taken into account the impact of HIV/AIDS on the personnel complement of the criminal justice agencies. At the moment, the SAPS and Justice departments lose large numbers of skilled personnel to the private sector. The loss of personnel is likely to increase as a result of AIDS.

³⁷ J H Prinsloo, An exploration of recidivism in South Africa, *Acta Criminologica*, 9(1), 1996, pp 40 - 57.

³⁸ Conversation with P Joubert, producer of BBC TV documentary on Pollsmoor Prison Gangs.

³⁹ Donziger SR et al (1996) *The Real War on Crime: The Report of the National Criminal Justice Commission*. Harper Perennial, New York.

⁴⁰ "Crime war not being won, says Tshwete", *Business Day* 8 June 2001.