

# VIOLENT JUSTICE

## VIGILANTISM AND THE STATE'S RESPONSE

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## EXECUTIVE SUMMARY

South Africa's high crime rate and inefficient criminal justice system cause many people to feel at best, insecure, and at worst held to ransom by both criminals and the government. As a result, public confidence in the police and the courts has decreased in the last few years. Many people have turned to self-help safety measures or have sought assistance outside government for protection against crime. The most obvious example is the private security industry which continues to grow in South Africa. But for those who cannot afford to buy these services, vigilantism has become a viable option.

Crime and vigilantism are not uniquely South African experiences. In Nigeria for example, a weak and poorly resourced criminal justice system has led to a situation in which members of vigilante groups now outnumber police officers. These groups are just as violent as those in South Africa. In South America, and particularly in Brazil, lynch mobs have at times taken to the streets after ordinary people felt that corruption in government and victimisation by drug gangs were terrorising their communities.

The concern is that vigilante groups take on policing and justice functions, often using violent means to illicit confessions and mete out punishment. As such, they function in opposition to the formal criminal justice system and threaten the rule of law—the foundation of any democracy. Moreover, instead of reducing crime, vigilante activities add to the workload of the police and courts.

One of the better-known vigilante groups in South Africa is Mapogo-a-Mathamaga, based in the Northern Province. Mapogo is the focus of this monograph not only because it is the largest group in the country, but also because it is unique in that it has support across race and class lines in both urban and rural areas. This support is based on the belief that Mapogo will deliver swift and harsh punishment and thus deter crime. Equally important, Mapogo's leader is charismatic and brave, and evokes sentiments held by many about crime in the country. In essence, Mapogo presents an affordable and appealing alternative to the ailing criminal justice system and the continued high levels of crime.

There is evidence that government has acknowledged the problems facing the criminal justice system and is taking action. Many new pieces of legislation, policies and strategies have been developed since 1994. Five types of initiatives that could assist in reducing vigilantism are:

- Improving the functioning of the criminal justice system as a whole
- Improving the conviction rate
- Improving service delivery to the public
- Enacting laws that are 'tough on offenders'
- Assisting the police and courts through crime prevention partnerships.

While most of these initiatives are appropriate and necessary, certain factors will limit their impact on vigilantism. These factors are discussed in the context of four recommendations:

*Publicise, on an ongoing basis, the convictions of perpetrators of serious and violent crimes, and corruption*

The main factor limiting the impact of the current initiatives on vigilantism is that many are likely to show positive results only in the medium to long term. To offset this, communication strategies should be developed that publicise the successes of criminal justice initiatives. In particular, the public should be notified when perpetrators of serious offences, violent crime and corruption are convicted.

*Prosecute those guilty of vigilante activity*

Another limiting factor is that despite several efforts by the police to investigate vigilantism, government has yet to send out an unequivocal message that these activities will not be tolerated. A targeted and visible approach that focuses on prosecuting those who commit vigilante acts, and the public condemnation of vigilantism by safety and security leaders, is required.

*Improve information provision as outlined in the White Paper on Transforming Public Service Delivery*

Although some aspects of service delivery are improving, the key weakness remains the provision of information to the public about the way the criminal justice process works. One of the reasons why people support vigilantism is the lack of information about proceedings in the criminal justice system. More attention should be paid to the White Paper on Transforming Public Service Delivery (Batho Pele) which stipulates that government departments should not only deal with complaints and cases brought by the public, but also provide information about how each service works, and what people can expect from the service provider. By doing so, officials in the police and courts could, in the process of their day to day activities, quite easily meet the frequently cited need for public education on the functioning of the criminal justice system.

*Encourage community crime prevention partnerships*

Despite policy on community policing and high level political support, functional partnerships between members of the public and agencies of the criminal justice system remain limited. Effective community-police partnerships can reduce the likelihood that people will resort to vigilantism and provide an avenue for constructive and legal participation in crime fighting efforts. Such focused partnerships, where roles and responsibilities are clear, should be encouraged to help reduce vigilantism. Partnerships should also be extended to court and prison processes in order to, for example, encourage people to testify in court, participate in community corrections, parole decisions and supervision and support of offenders released on parole.

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## CHAPTER 1

### Introduction

Vigilantism has become a serious concern for government and civil society in South Africa. The problem is hard to quantify, but the largest and most recent survey conducted in 1999 in the Eastern Cape found that one in 20 people said they had personally been involved in vigilante activity and every fifth person said they would consider becoming involved.<sup>1</sup>

### **The dangers of vigilantism**

Vigilantism not only leads to an increase in the overall level of crime, but also influences how government responds to crime generally and most importantly, undermines the rule of law. The activities of vigilante groups like People Against Gangsterism and Drugs (Pagad) in the Western Cape and Mapogo-a-Mathamaga (referred to as 'Mapogo') in the Northern Province are cases in point. The activities of both these groups have seen a rise in gang related violence in the case of Pagad, and many instances of assault in the case of Mapogo. The brutal and illegal methods employed by vigilante groups have also forced reactions from the communities in which they operate, which in turn result in more crime. The emergence of Amampondomise Thieves Unit in Tsolo and Qumbu in the Eastern Cape in response to Umfelandawonye wa Bafuyi, Maputla re tla ja Kae in Mpumalanga in response to Mapogo and the Community Outreach Forum in response to Pagad in the Western Cape are some examples of such a reaction.

In the post 1994 era, the state's response to vigilante activity was initially subdued. Both Pagad and Mapogo were flagrantly disregarding the law in their 'fight against crime' and it was only after many deaths and injuries at the hands of these self-appointed 'crime fighters' that the state intervened. This lack of action against vigilante activity undermines public willingness to adhere to the rule of law and sends the message that taking the law into your own hands can be tolerated.

More recently however, government's position has hardened. In the case of the draft anti-terrorism bill, the response could be called an over-reaction. It could be argued that the terror attacks and bombings in Cape Town in the past few years (which have been ascribed to Pagad) were key to the promulgation of the draft terrorism legislation that goes so far as to threaten civil liberties. As vigilante acts continue, the state may become increasingly inclined to adopt harsh law enforcement measures in an attempt to reassure the public that government can control criminality and violence.

The key concerns are that vigilante groups take on policing and justice functions, often using violent means to illicit confessions and mete out punishment. As such, they function in opposition to the formal criminal justice system and threaten the rule of law—the foundation of any democracy. Moreover, instead of reducing crime, vigilante activities add to the workload of the police and courts. In South Africa, for example, vigilantes have assaulted alleged criminals, dropped them off at police stations and then refused to testify in court as a witness to the alleged crime.

### **Focus on the past two decades**

The phenomenon of vigilantism in South Africa spans over a number of decades. For the purposes of this monograph, the focus will be on the last 20 years when vigilante activity was at its height. While vigilantism undoubtedly occurred in the 1970s, it was in the mid-eighties and the 1990s that the problem became more pronounced.

The nature of vigilantism has changed over the past two decades. The eighties generally were characterised by heightened political resistance to the apartheid government. In an attempt to divert attention away from this resistance, the government assisted in strengthening existing vigilante groups and creating new ones in the former homelands and black local authorities.<sup>2</sup> During this period vigilante groups had state support and in some instances received financial support and arms. As it was understood in the eighties, vigilantism signified the violent, organised groups which, although they received no official recognition, acted to neutralise and destroy groupings opposed to the apartheid state and its institutions.<sup>3</sup>

In the mid nineties, vigilantism began to re-emerge throughout South Africa, and notably in the Western Cape, the Eastern Cape and the Northern Province. Possible reasons relate to the transition in government after 1994 and the challenges it posed for effective criminal justice and policing, as well as the public expectations that accompanied the advent of democracy. Between 1994 and 1996 the new government set itself the difficult task of realigning old apartheid legislation with the newly established constitution and bill of rights. This presented significant challenges both for the legislators as well as the police and prosecutors who had to implement the new laws. In the process, the public were left behind and the general understanding of this new 'human rights culture' remains limited.

It is also likely that the euphoria shortly after 1994 also meant high expectations that the state would at last be in a position to protect all its citizens equally and deliver essential services. Two years after the elections however, disappointment with slow delivery, rising crime levels and growing perceptions that the criminal justice system is ineffective and slow, no doubt led to many people taking the law into their own hands. This is evidenced by the common explanation among proponents of vigilantism today that the ANC-led government and the country's new constitution have afforded criminals rights at the expense of the victims. The claim is also made that the police and the courts have become less effective, more corrupt and unable to stop crime.

"We are a desperate nation ... Whenever you see people joining Mapogo, you must know that the climate is not right. Something is not right here." Montly Magolego, president of Mapogo, ISS seminar, 8 June 2001.

In attempting to understand the growth of vigilantism in South Africa in the last decade, this monograph focuses on one of the better-known vigilante groups: Mapogo-a-Mathamaga. Based in the Northern Province, Mapogo was selected as a case study not only because it is the largest group in the country (with approximately 70 000 paying members), but also because it is unique in that it has support across race and class lines in both urban and rural areas in at least five of the nine provinces. Mapogo has the support of white farmers and business people, black business people, the rural poor, pensioners, teachers, and right-wing political supporters.

This support is based on the belief that Mapogo will deliver swift and harsh punishment and thus deter crime. Equally important, the leader of Mapogo is charismatic and brave, and evokes sentiments now held by many about crime in the country. In essence, Mapogo presents an affordable and appealing alternative to the ailing criminal justice system and the continued high levels of crime.

Based on the conclusions about why people support vigilante groups—and Mapogo in particular—the monograph considers various initiatives of the criminal justice system that could positively impact on the phenomenon.

## Methodology

This monograph began with a literature review on the origins of vigilantism in South Africa from the early 20th Century through to the present along with an analysis of past and current media coverage of vigilantism. Fieldtrips were subsequently conducted in the Northern Province, Western Cape and Gauteng. These consisted of qualitative interviews with stakeholders in government, civil society and members of vigilante groups.

More specifically, in the Northern Province the following people were interviewed: senior police officials, justice officials,

members of various community fora, traditional healers, the South African National Civic Organisation, executive members of the interim Mapogo and members of Mapogo led by its president Montle Magolego. In addition, victims of vigilante attacks, traditional leaders and youth groups mainly in Seshego, Mankweng, Nebo, Motetema and Lebowakgomo were interviewed.

In Gauteng, interviews were conducted in Alexandra, Pretoria and Diepsloot with the executive member of Mapogo, police officials at local police stations, and selected business people.

In Cape Town, a range of similar stakeholders were interviewed including the police, members of the Peninsula Anti-Crime Agency (Peaca), the Center for Military Studies, the Heide-Cath Neighbourhood Watch, community members in Gugulethu, Nyanga and Khayelitsha.

On completion of the fieldwork, a closed roundtable discussion, a public conference and a briefing in the Northern Province were held with relevant stakeholders, government representatives, academics and members of Mapogo, to inform the direction of this monograph.

## Monograph outline

Chapter two traces the development of vigilantism in South Africa with a focus on the past decade. On the basis of this discussion, the chapter attempts to define vigilantism.

Chapter three presents a case study of Mapogo-a-Mathamaga. It begins with an overview of the Northern Province where the organisation has its roots, and reviews the crime trends in this area. The development and operations of Mapogo are discussed.

Chapter four outlines selected initiatives taken by the Departments of Safety and Security and Justice to strengthen the criminal justice system and in doing so, assist in reducing vigilantism. It ends with a review of the key issues that lead to vigilantism and recommends several interventions to reduce the problem in the short to medium term.

## CHAPTER 2

### The development of vigilantism in South

This chapter begins with a brief outline of the origins and development of vigilantism up to the early 1990s. Vigilante activity during this period is then contrasted to the post 1994 era when significant political changes occurred in South Africa. The reasons for vigilantism in the past decade are discussed. Finally, the chapter attempts to define vigilantism.

### Vigilantism up to the early 1990s

African communities in South Africa have a long history of developing their own systems of policing, dispute resolution and punishing offensive behaviour. The South African government had as early as 1910 sought to control indigenous African systems of policing and justice, generally among African communities. This was done through the appointment of chiefs in rural areas and representatives of homelands in urban areas.<sup>4</sup>

In the early 1940s the state sanctioned the extension of civilian protection in the townships. The Civic Guard units for example, were established in several townships including Sophiatown, and were tolerated by the state.<sup>5</sup> The units were banned in 1952 but due to continued public disorder and the lack of government protection, communities organised themselves against criminals.<sup>6</sup>

The origins of vigilantism in South Africa have also been linked to other community structures established in the 1970s under the concept of *Makhotla*.<sup>7</sup> Although controversial because of their association with tribal or 'homeland' representatives in the townships, the purpose of *Makhotla* was to rebuild and care for the community. They functioned as alternative systems of township justice alongside the formal legal system.<sup>8</sup> However, when they began transgressing boundaries of legal behaviour they were no longer tolerated by government or by the communities where they operated.<sup>9</sup>

At the same time as *Makhotla* were operating, the country began to experience political upheavals in the form of the Soweto riots and the period of resistance that was to follow. It is this period and the political context that shaped it, that

some believe gave rise to vigilantism. According to Coleman, vigilante groups first made their appearance in South Africa around 1985 and have their origins in the support systems that were built up around the highly unpopular structures of homeland authorities and Black Local Authorities created under apartheid.<sup>10</sup> During this period vigilante groups were, loosely explained, conservative groupings either formed by or supported by the state, to destroy resistance against apartheid.<sup>11</sup>

These arguments suggest that the emergence of vigilantism in both the 1970s and the 1980s was encouraged to support the aims of the apartheid government. Vigilantism became a form of social control over township residents who resisted the apartheid system, particularly the homeland system and the Black Local Authorities. Although these groups portrayed themselves as guardians of residents who aimed to "educate, serve, acquaint people with the requirements of the legal system, integrate and organise public opinion and develop areas", many township residents viewed them with suspicion.<sup>12</sup>

Examples of such groups include the Council for Brothers of Chiefs, Mamelodi Venda Urban Representative Board and Inkatha Yesizwe, which had close ties with unpopular state structures particularly the Black Local Authorities and so-called homeland leaders. Anti-apartheid activists believed these groups embraced the notion that African people belonged in the homelands and that they insisted on imposing apartheid laws on township residents. They have been explained as trying to educate people in the townships with the requirements imposed upon them as "visitors" to South Africa to ensure compliance with the formal legal system.<sup>13</sup>

During the township uprisings of the 1980s, structures such as the Black Local Authorities and the homelands came under increasing attack from the ANC-aligned United Democratic Front (UDF), youth and civic organisations. The homeland leaders were seen as puppets of the apartheid government, which inevitably created tensions between them and the liberation movements. Mangosuthu Buthelezi (former head of the KwaZulu homeland and leader of Inkatha Yesizwe), Oupa Qgozo (former head of the Ciskei) and Lucas Mangope (former head of Bophuthatswana) became embroiled in heavy conflicts with the UDF and its allies. These homeland leaders and the Black Local Authority councillors used a range of vigilante groups to destabilise communities and counter the attacks by the UDF aligned civic and youth groups (Table 1). Clashes involving these vigilante groups left thousands dead and others homeless.

**Table 1: Vigilante groups who supported the former homeland leaders and Black Local Authorities**

| <b>Province</b>                       | <b>Vigilante group</b>                   |
|---------------------------------------|--|
| <b>Mpumalanga (former KwaNdebele)</b> | <b>Mbokodo</b>                           |
| <b>Mpumalanga</b>                     | <b>Black Cats</b>                        |
| <b>Gautent</b>                        | <b>Toaster gang</b>                      |
| <b>KwaZulu-Natal (former KwaZulu)</b> | <b>Amasinyora and Amambutho</b>          |
| <b>Western Cape</b>                   | <b>Amasolomozi, Witdoeke and Amadoda</b> |

|  |  |
|--|--|
| Eastern Cape (mostly in the former Ciskei) | Kekanas, Mememsi and AmaAfrika                         |
| Free State                                 | Three million gang, Mabangalala and A-Team (Phakathis) |

*Source: M Coleman, Crime Against Humanity, Analysing the Repression of the Apartheid State, David Philip, Cape Town, 1998.*

Violence related to vigilante activity intensified during the 1980s and by October 1988, over 90% of unrest-related deaths were caused by vigilante and counter-vigilante violence in South Africa.<sup>14</sup> In response to the ever-increasing numbers of attacks by vigilante groups and in an attempt to replace official state structures with ANC structures, many communities under the direction of their local civic associations formed street committees and people's courts.

Street committees were set up primarily to protect communities and to alert them to pending attacks from vigilante groups, particularly when these were aimed at leaders' homes. People's courts on the other hand were set up to try alleged police informers, criminal elements within the liberation movements commonly known as comtsotsis and common criminals. At times the people's courts also intervened in family disputes.

The forms of community justice that developed in response to the state sponsored vigilante groups as well as the lack of protection from official sources, led to the term vigilantism becoming synonymous with 'popular justice' in the early 1990s.<sup>15</sup> In truth, by this stage many kinds of informal justice had begun operating, including irregularly constituted 'kangaroo courts', regularly constituted court structures, street committees or disciplinary committees, spontaneous street gatherings dispensing ad hoc and summary justice, and various informal policing and vigilante activities.<sup>16</sup> The variation in types of informal justice operating during the 1990s probably encouraged the tendency to seek one all-encompassing term for these activities:

"These different forms of informal justice involve contrasting procedures and activities and different groups of people, but they are often conflated into the single category of people's courts." <sup>17</sup>

In conclusion, the development of vigilantism up to the early 1990s was influenced by:

- The repressive nature of the state during apartheid and the reactions and counter-reactions that this drew from various political and community based groups.
- The fact that the state did not provide services, particularly in respect of safety and justice that the communities needed.
- The fact that institutions of the state were inaccessible to local communities.<sup>18</sup>

### **After 1994: high crime and weak service delivery**

In the post-1994 period vigilantism can be explained largely in terms of high crime levels, public perceptions that government is unable to respond, the poor delivery of services associated with safety and the inaccessibility of justice to most South Africans.

Two years after the 1994 elections, South Africa began to experience the re-emergence of community justice or vigilantism. Proponents of vigilantism argue that poor service delivery and the inaccessibility of the criminal justice are the key factors causing people to support these methods.<sup>19</sup> South Africa is not unique in this regard.

These factors have been noted in other contexts as giving rise to vigilantism. In the UK for example, communities that believe the police have failed to deal with criminals advocate the "pursuit of criminal deviants, the righting of a criminal wrong by violent and informal means, the leaving of a warning...for others who might possess similar criminal dispositions." 20 In Northern Ireland, punishment, beatings and shootings of suspected criminals are believed to exist for three main reasons: the lack of a legitimate and adequate police service, the rising levels of petty crime, and the failure of the formal criminal justice system.<sup>21</sup>

In South Africa, supporters of Pagad, Mapogo-a-Mathamaga and Umfelandawonye—some known vigilante groups—all name weaknesses with the criminal justice system and the problem of police corruption as reasons for the establishment of these groups.<sup>22</sup> A review of available indicators about crime levels, the performance of the criminal justice system, perceptions about safety and corruption, and access to justice indicate that many of these perceptions are accurate.

### *Crime trends<sup>23</sup>*

According to official statistics of the SAPS, levels of recorded crime in South Africa began to increase in the mid-1980s—dramatically so in the early 1990s.<sup>24</sup> Expectations that levels of violence would decrease after 1994 did not materialise. During the first three years after South Africa's political transition in 1994 overall crime levels stabilised, albeit at very high levels. The number of recorded crimes increased by 3% between 1994 and 1996. Over a similar period South Africa's population increased by an estimated 4%.

Since 1997 however, overall crime levels have increased steadily. While crime levels decreased fractionally between 1995 and 1996, and increased by only 1% between 1996-97, the increase was 5% in 1997-98, 7% in 1998-99 and 8% in 1999-2000.

Not all crimes increased or decreased at the same rate between 1994 and 2000. Overall, the 20 most serious crimes increased by 24% during this period. Residential burglary increased the most (by 33%). Assault with the intent to commit grievous bodily harm, robbery with aggravating circumstances and common assault all increased by more than the total. The number of recorded murders and car thefts decreased between 1994 and 2000.

Violent crimes are, given their nature and likelihood of attracting media coverage and public anger, of particular relevance to the issue of vigilantism. The statistics reveal significant trends in regard to the changing level of violent crime. Unlike overall recorded crime levels which decreased slightly in 1995-96, recorded violent crime has increased consistently since 1994.<sup>25</sup> In 1994 some 618 000 incidents of violent crime were recorded, increasing to 825 501 incidents in 2000. Between 1999 and 2000 the number of recorded violent crimes increased by 10%—more than any other crime category. Between 1994 and 2000 violent crime increased by 34%. By comparison, property crime increased by 23% over the same period.

By global standards South Africa has high levels of violent crime. In 1999 a third of all crimes recorded by the police in South Africa were violent in nature. In the United States, which is considered to be a relatively violent society, 15% of recorded crimes were violent in that year, while about 6% of recorded crimes in the United Kingdom were violent in nature.

According to 1998 Interpol statistics, South Africa had the highest per capita rates of murder and rape, the second highest rate of 'robbery and violent theft', and the fourth highest rates of 'serious assault' and 'sexual offences', of the 110 countries whose crime levels are listed by Interpol.<sup>26</sup> It is however worth noting that apart from murder, international comparisons of other crime categories can be misleading due to the variance in reporting tendencies from one country to the next, as well as in how crimes are recorded by law enforcement agencies. Nevertheless, the fact that South Africa's murder rate is the highest of all countries reporting to Interpol confirms the particular problem of violence that faces this country.

### *Indicators of criminal justice system performance*

Measuring the performance of the criminal justice system is complex, particularly when certain statistics such as police arrest rates are not available. However several indicators, based on available data from the police, courts and prisons, indicate that the functioning of the system is weak in particular areas:

- Many detectives are ill equipped to deal with their task and most are over-burdened. In 2000, the ratio of recorded crimes to detectives in the country was 118:1.<sup>27</sup> Of the roughly 20 000 detectives in the SAPS at least a third have

not received basic investigative training. This severely limits their ability not only to investigate cases to the point that an arrest can be made, but equally importantly, to provide follow-up to the victims about progress on their case. The provision of follow-up (contacting and informing the complainant about the state of their case and what to expect) has been identified in a recent survey as the most important complaint about police service delivery among people who reported a crime to the police.<sup>28</sup>

- The number of cases resulting in a conviction as a proportion of the number of cases recorded by the police is low. In 1999 it ranged from just over 50% for drug related offences to 17% for murder, 8% for rape and 2% for car hijacking. This means that on average, only one out of every six recorded murders end in a conviction of the perpetrator. For rape the ratio is about one out of 13 and for car hijacking, one out of 63.<sup>29</sup> This low conviction rate is probably the result of problems both with the quality of detective work and information provided in their case dockets, as it is with over burdened court rolls. Whatever the reasons for the low conviction rate, it strengthens the perception that the criminal justice system is weak.
- Once the decision is made to institute a prosecution, the success rate is however high. On average, about three-quarters of all crimes that are prosecuted result in a conviction of the accused person. This is not surprising given that the prosecution service can choose those cases where there is a reasonable chance of securing a conviction.
- The prosecution service has been taking on fewer and fewer cases. Although the number of crimes has increased over the past decade, the number of cases taken on by the prosecution service has declined over this period. In 1985/86 some 480 600 prosecutions and 373 980 convictions were recorded. This decreased to 257 390 prosecutions and 202 590 convictions in 1999.<sup>30</sup> This decline is worrying when considering that the number of serious crimes recorded by the police increased by 481 427 between 1994 and 2000.
- The increasing number of unsentenced prisoners in South Africa's prisons is another clear sign that the criminal justice system is struggling to process cases. The number of awaiting trial prisoners increased from 19 571 in June 1994 to 55 558 in December 2000—an increase of 184%. Over the same period the number of sentenced prisoners increased by 35%.<sup>31</sup>
- The length of time unsentenced prisoners remain incarcerated until their case has been finalised also increased considerably between 1996 and 2000. In June 1996 the average time spent awaiting trial was 76 days. By December 2000 this had increased to 136 days.<sup>32</sup>
- As a result of the increase in numbers of unsentenced prisoners, the prisons have become dangerously overcrowded. The South African prison system was designed to accommodate 100 668 inmates. Currently there are 172 271 prisoners behind bars. The problem of overcrowding varies by prison and by province. One of the worst cases is Johannesburg Medium A where 6 250 prisoners are kept in cells designed to hold 2 630. The most overcrowded prison in the country is the awaiting trial prison in Johannesburg, which is at 393% occupancy.<sup>33</sup>

These problems in the criminal justice system affect the relevant departments' ability to respond to the needs and expectations of victims who report crime, as well as the needs of victims and witnesses who must appear in court when their cases are being prosecuted. Under these circumstances, delivering a service to the public that can counter the fears and frustration brought about by rising crime levels is understandably difficult. The overburdened system thus fuels public perceptions that the criminal justice process is slow, complicated, favours the offender over the victim, and is skewed towards servicing the wealthier sections of society. These are all complaints that have been noted by supporters of vigilantism.

### *Perceptions about safety, policing and the criminal justice system*

Several surveys provide evidence that public perceptions about personal safety and the ability of government to provide safety are low and have deteriorated since 1994.

The most comprehensive national survey covering these issues is that conducted annually by the Human Sciences Research Council (HSRC). These opinion polls, conducted since 1995, show a dramatic fall in the extent to which ordinary South Africans felt safe. In 1994, over two thirds of people felt safe (73%). This proportion dropped to its lowest level in 1998 when only 43% said the same. The decline has however since tapered off. In 1999 slightly more people (44%) said they felt safe. These trends must be seen in the context of the transition process:

"One of the most striking elements of the post-1994 South Africa is the way in which crime quickly

emerged as a key governance issue. The hopes of the government and the South African public that the legitimacy of the first democratically elected government would serve to reduce crime rates, soon floundered..." 34

Although the more recent HSRC survey data (for November 1999) suggests that public perception might be improving, it is too soon to establish a clear trend in this regard.

The HSRC survey also asked people's opinion about the extent to which government had control over the crime situation. Less than one in ten people in South Africa (9%) believed that government had "full control". Nearly half (49%) said government had some control and 35% thought government was "not in control". The remaining 7% of the sample said they did not know.

Similar views were expressed by respondents in the national victims of crime survey conducted in South Africa in 1998. The survey showed that only 38% of all respondents (victims and non-victims) were satisfied with the police, 40% were not satisfied and 23% were neither satisfied nor dissatisfied.<sup>35</sup> A more recent survey conducted by the ISS of 13 659 respondents in 45 police station areas across the country, found that nearly half (47%) of people said the quality of policing in their area had deteriorated over the past four years. A third (32%) said there had been no change and 21% said policing had improved.<sup>36</sup>

Other localised surveys on vigilantism and attitudes to punishment produced similar results. A survey about support for Pagad conducted by Idasa in 1996 in the Western Cape showed that 55% of all respondents disapproved of overall police performance. When victims who had laid a charge with the police were asked their opinion, 68% felt that overall police performance was poor. The police were not the only government agency whose service respondents were dissatisfied with. When asked about their views of the justice system, 65% said the overall performance of the courts was poor.<sup>37</sup>

In a study on attitudes to punishment conducted by the ISS in the Eastern Cape in 1999, nearly half of all respondents (47%) thought there had been no improvement in the functioning of the criminal justice system since 1994.<sup>38</sup> A quarter believed the criminal justice system was performing well, while 50% stated that it was not. When asked whether they agreed with the statement that "the government has done a good job in fighting crime and lawlessness", 25% said they did, while the majority (58%) said they disagreed. In response to all these questions, black respondents were more inclined to respond positively than were those from other race groups.

It is however encouraging that according to the national HSRC survey, the perceptions recorded in late 1999 (noted above) were an improvement on the results for 1998. In 1998, 5% of South Africans said government had full control of the crime situation, 41% said it had some control and 51% said government was not in control. In addition the 1998 HSRC survey found that crime was identified as the major national priority for the country. In 1999, crime was replaced in this position by job creation.<sup>39</sup>

This improvement in the public assessment of government's ability to respond to crime could be attributed to the high profile and tough talking new Minister of Safety and Security, Steve Tshwete, who took up office at the beginning of 1999. While these perceptions are undoubtedly positive, public spokespersons should guard against leading the public to expect a quick fix to the high crime rate.<sup>40</sup> If raised expectations are met by continued high crime levels, the results may be similar to those recorded after the euphoria of 1994 had worn off—despite what the politicians say.

Although several surveys, such as those described above, show that perceptions of the police and courts' performance is poor, few studies show a direct link between these perceptions on the one hand, and support for vigilantism, on the other. The one exception is the survey about support for Pagad conducted by Idasa in 1996 in the Western Cape.

The survey sought to understand why people in the Western Cape supported Pagad, and why they would join the organization. Using multiple regression, the analysis showed that "*the most important factors that distinguished those who would support or join radical collective action against crime [through use of intimidation or violence against criminals]*", were:

- **Fundamentalist values:** those who believed in severe punishment and that society should punish wrongdoers that courts did not, and religious wars.
- **Gender:** men were more willing to participate in citizen action than women.
- **Perceptions of safety:** those who felt less safe at home or in their neighbourhood were more willing.

- **Legal values:** those who were less supportive of the rule of law and the rights of the accused.
- **Religion:** Muslims were more likely to get involved.
- **Perceptions of treatment by the police and courts:** those who felt they were treated "unequally" by the police and courts.
- **Performance ratings of the police and courts:** those who disapproved of the overall and specific job performance of the law enforcement institutions.
- **Age:** younger people more likely than older people to become involved.<sup>41</sup>

However, the study found that most of these same factors also explained why people would participate in or support "peaceful methods of collective action" (our emphasis) such as signing petitions, boycotting businesses and marching on the local police station. The similarity in the factors that characterized those who would support and participate in radical action, with those who supported peaceful action suggests that this list of factors explains the propensity to engage in collective action, per se. However it does not explain why people support violent collective action, or vigilantism. In this regard, it is telling that the Idasa survey showed that the only two factors of the list above that did not characterize those who said they would support peaceful action were 'perceptions of safety' and 'performance ratings of the police and courts'.<sup>42</sup>

This suggests, as is argued throughout this monograph, that the key reasons why people support violent collective action against criminals are that they believe the police and courts are performing poorly and that they feel unsafe. Other data from the Pagad survey supported this. Respondents who were dissatisfied with the crime situation and those who disapproved of the performance of the police and courts, were more likely to say they would join Pagad:

- 28% of the respondents who were dissatisfied with crime said they would join Pagad, compared to 17% who were satisfied with the crime situation.
- 33% of those who disapproved of the police's performance said they would join Pagad, compared to 17% of those who approved.
- 30% of those who disapproved of the courts performance said they would join Pagad, compared to 15% of those who approved.<sup>43</sup>

Although the ISS survey on attitudes to punishment in the Eastern Cape did not directly link perceptions about criminal justice to support for vigilante action in the way that Idasa's Pagad survey did, it provided useful indications about why people say they support harsh punishment—one of the defining characteristics of vigilante activity.

The ISS attitudes to punishment survey found substantial support for non-formal methods of sanctioning criminals: just under half of the total sample and as many as 75% of rural respondents supported alternative or traditional forms of punishment.<sup>44</sup> Most respondents were also in favour of harsh punishment. Three quarters thought the death penalty should be reintroduced for persons convicted of serious crimes, and just over half (51%) said the same about corporal punishment. However when presented with brief descriptions of a number of crimes and asked to impose a sentence on the perpetrators, respondents suggested sentences that were more *lenient* than those that are currently on the statute books under the minimum sentencing legislation (Figure 1). Respondents were particularly lenient when it came to punishing people who had been convicted of vigilante crimes. When asked what kind of sentence a person deserved who had murdered his daughter's rapist, 5% said no punishment at all and 38% chose a non-custodial sentence.

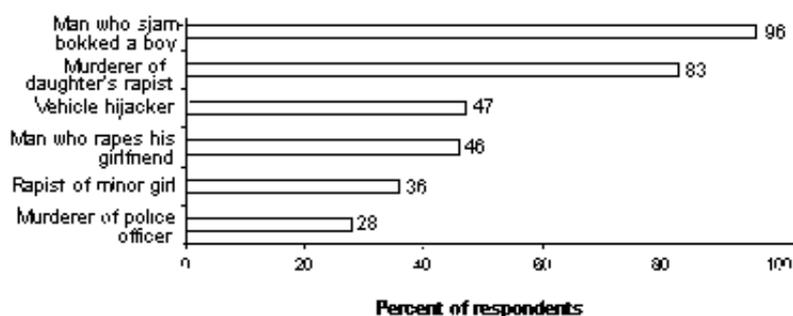
"Without corporal punishment, our government will never stop crime in South Africa."  
Montle Magolego, president of Mapogo, ISS seminar 8 June 2001.

Thus, although most respondents supported harsher punishment, when faced with more detailed scenarios of actual crimes, they were considerably less draconian. This questions the extent to which public demands for harsher punishment

(and thus possibly vigilantism as well) are indeed about punishment and a rejection of the 'human rights culture' which is believed to afford criminals more rights than victims. It is possible that the calls for punishment are related to the need not only for swifter justice but also for more clarity on the process of criminal justice.

The survey indicated a clear need for the right kind of information about the criminal justice process, how it works and what people should expect from it (see the section on 'access to justice' below). It also showed—contrary to popular belief—that most respondents thought it was important that the criminal justice system respect the constitutional rights of accused persons. Three quarters thought it was important that the justice process ensures that no innocent people are convicted of crimes, even if this means some guilty people will go free. Almost two thirds said that juveniles should be treated more leniently than adults by the criminal justice system and most believed that convicted offenders should be treated fairly.<sup>45</sup>

**Figure 1: Respondents who chose a more lenient sentence for specific crimes than is provided for by law, Eastern Cape**



*Source: ISS survey on attitudes to punishment in the Eastern Cape, 1999*

Furthermore even when people said they support harsh punishment and "alternative justice" they were unlikely to be willing to participate directly in punishing offenders themselves. For example, in the ISS attitudes to punishment survey, only 5% of respondents indicated that they had participated in vigilante activity. A further 7% said that members of their household or their friends had actually participated in vigilante activity.<sup>46</sup>

### *Perceptions about corruption*

One of the complaints raised by proponents of vigilantism in relation to the poor performance of the criminal justice system was corruption. Survey evidence shows that corruption among government officials is widely regarded as a problem by the public. In the HSRC's November 1999 countrywide opinion poll over half (53%) of respondents said they thought corruption in state institutions was increasing.<sup>47</sup> Just less than a quarter (22%) thought it was decreasing and 25% said they did not know. White (84%) and Indian respondents (81%) were much more likely to hold this view than coloureds (63%) and Africans (45%). The percentages who thought corruption was increasing in government were nevertheless high across race groups.

When asked whether they thought government was doing enough about the problem of corruption, respondents were most likely to believe that the priority government gives to fighting corruption is "sufficient" (34%). However, almost as many said the priority was too low (30%). Interestingly 17% said the priority given was "too high" and 19% were unsure. More importantly, most respondents were unaware that the actions of public officials are regulated and bound by a code of conduct: 61% said they were unaware of government's anti-corruption efforts in this regard. It is possible that if more people knew that government officials are bound by a code of conduct, they would assess the level of corruption and government's efforts to combat it, more critically.

Public concern about police corruption was confirmed in the ISS survey on community policing and police service delivery conducted in police stations across the country. When asked why policing had deteriorated, the most common response (by 29% of people) was that corruption was the cause.<sup>48</sup> This is significant since in other similar surveys conducted between 1997 and 1998 in the country's major metropolitan areas, corruption ranked fifth or lower as the reason for dissatisfaction with policing.<sup>49</sup>

These perceptions are not restricted to the police. When asked their views on the involvement of police and justice officials in corruption, 75% of respondents in Idasa's Pagad survey in the Western Cape said there is at least some level of corruption in the police. More than half (52%) felt that at least some judges and prosecutors were corrupt.<sup>50</sup>

The available evidence about the extent of police corruption and police involvement in criminality generally, suggests that the problem is real and not just one of perception. Between 1994 and 1997 an average of 13 954 complaints or charges per annum were laid against SAPS members. Figures from 1998 to 2000 were not available. Based on the 14 600 cases investigated by the SAPS against its members during 2000, indications are that the number of complaints may be decreasing.<sup>51</sup>

It is however difficult to tell the extent to which these figures are influenced by reporting or recording practices, or budgetary changes in the police. The Independent Complaints Directorate for example, recorded a substantial increase in the number of complaints received against SAPS members in the financial year April 1999 to March 2000. It received 4 380 complaints during that period, representing a 52% increase in complaints compared to the previous year.<sup>52</sup> Of the complaints received in the last financial year, the largest proportion (38%) were for misconduct. Over a quarter (28%) fell outside the ICD's mandate, 17% were for serious criminal offences, 15% were deaths in police custody and the remaining 2% were referrals from the Minister of Safety and Security or the MEC's in the provinces.

### *Access to justice*

The perceptions of criminal justice are compounded by poor access to justice. Access to justice is impeded both by physical and resource related constraints which make the police and courts inaccessible, as well as the reduced participation in criminal justice processes as a result of a lack of understanding about the complex legal system.

Access to the police in South Africa is affected by the various challenges facing the SAPS, such as limited resources, an overly centralised and bureaucratic hierarchy, a lack of appropriate skills and training, a shortage of managerial expertise and a limited intelligence and investigative capacity.<sup>53</sup> These problems are exacerbated by South Africa's history of racially biased policing, which meant that in 1994, 74% of the country's police stations were situated in the white suburbs or business districts.<sup>54</sup> Although this imbalance is being addressed, the problem still limits the access of the majority of the population to the police.

These limitations make it difficult for the SAPS not only to detect crime but also to provide proactive policing, particularly in the form of patrols and other methods that increase their visibility to the public. The visible presence of police officers increases public feelings of safety and levels of confidence in the police.<sup>55</sup> It can also help to deter particular types of crime such as opportunistic street and property crimes. These are key areas of policing that are perceived by supporters of vigilante activity as inadequate.

"This [visible policing] is about restoring confidence in our communities. We need to create the perception in the minds of the people that the police care and with that we can help in ensuring a safe environment. How can we do this if we cannot be visible?"  
Assistant commissioner, SAPS Durban, October 1999.

The lack of access to the police is compounded in the rural areas of the country where more than 18 million people, who make up 46% of South Africa's population, live.<sup>56</sup> The geographic isolation and inaccessible topography of many of these areas, the lack of infrastructure and the resource and capacity constraints of the police as well as those they are meant to serve, all play a role (see box below).

### **Problems accessing the police: the case of Tugela Ferry**

The town of Tugela Ferry is situated on the banks of the Tugela river in the remote hilly region of central KwaZulu Natal. The tiny town serves a population of some 1.5 million people located in ten villages scattered across about 1 400 km<sup>2</sup>. The population is very poor,

and most of the economically active people are unemployed.

The site of substantial political violence from the mid-1890s to the early 1990s, the area is notorious for its violence and is still troubled by taxi violence, stock theft, murder, armed robbery and gun smuggling. Set to deal with these problems are only 30 police officers. This provides a police presence of one officer per 50 000 residents spread over 47 km<sup>2</sup>. Once the shift system, vacation, sick leave and absenteeism are factored in, the actual operational policing capacity is closer to one police officer per 75 000 residents. According to the SAPS own assessments, Tugela Ferry police station is 50% under-resourced.

The station has only 10 vehicles, most of which are inappropriate for the mountainous terrain and just four officers have a driver's licence. In practice this means that one of these officers needs to be on duty at all times which affects standby and rest periods. It is not surprising that the station battles with morale and discipline issues evidenced by absenteeism and alcohol abuse among the members.

E Pelser, A Louw and S Ntuli, *Poor safety: crime and policing in South Africa's rural areas*, ISS monograph No 47, May 2000.

According to a survey of crime and policing in deep rural areas conducted by the ISS in 1998, respondents were most likely to say they never saw the police on duty in their area: 34% said this was the case, while 32% saw a police officer less than once a month, 18% saw an officer more than once a month, 10% said at least once a week and only 7% saw a police officer once a day.<sup>57</sup> The limited police presence was compounded by a general lack of infrastructure in these areas which inhibits access to police services. For example, only 9% of people said they have a telephone in their home, and only 7% said their telephone was in working order. This means that the vast majority of people in rural areas can only access the police by traveling to the nearest police station. However most of the respondents (64%) lived more than 11kms from the nearest police station, and a further 36% lived within 10kms from a police station.

Thus, the remoteness of some of the police stations and the lack of telephones and personal transportation meant that for many in the rural areas, accessing police services can be a long and expensive exercise.

Access to courts is limited by similar factors as those described above. Long distances and the costs involved in reaching a court have led many victims and witnesses to stop attending cases, with the result that the charges are dropped or cases are withdrawn in court. This in turn means that justice is not seen to be done, particularly for the poor and those in rural areas. These problems have been identified in a report by the South Africa Law Commission dealing with the issue of community courts.<sup>58</sup>

In addition to logistical problems that make reaching a court difficult, the legal system as a whole, its operation and the language used by the courts, have often proved to be obstacles:

"The inability to meet the needs of the ordinary citizens was however not merely due to content of the law, but also because the structure and procedural requirements of the courts meant that many people were denied access to the courts."<sup>59</sup>

This has the effect of alienating people from participating in the proceedings, not least because they rely on translations.

The new constitution and the array of new laws that have been drafted since 1994 have also left many confused. For example victims, witnesses and the public in general often do not understand why an accused person can be granted bail for an offence that is regarded as serious. Many feel that criminals are afforded too many rights. In Idasa's survey of Pagad in the Western Cape, 57% of the respondents felt that suspected criminals should not have the opportunity to be released on bail. More than two thirds (68%) thought that the police should be allowed to hold suspects until there is sufficient evidence to charge them.<sup>60</sup>

The ISS attitudes to punishment survey in the Eastern Cape similarly found that many respondents were ignorant of the role and purpose of the criminal justice system, and the different functions of its component parts (police, justice and prisons). There was for example confusion about who should mete out punishment. Only 59% of respondents thought that magistrates or judges should be responsible for deciding on punishment.<sup>61</sup> As many as 28% said that the police should be responsible and 10% believed the community should mete out punishment. This situation limits people's interaction with

the criminal justice system:

"If people are to have confidence in the criminal justice system, they need to have at least a rudimentary understanding of how the system works. Moreover, if people are to co-operate with the criminal justice system, they need to have the confidence for example, to provide the police and prosecution service with information and evidence against criminals and their activities. Such confidence can be fostered only by telling the public what the role and duties are of, for example, police officers and prosecutors." 62

Given that the police are usually the first point of contact between the public and the criminal justice system, the SAPS has an important role to play in providing victims and witnesses with information about how the system works.

The police in the charge office have an obligation to provide information to complainants who report a crime about the likely procedures that will follow. However, it is the detectives, more than the officers in the charge office, who provide the link between complainants and the rest of the criminal justice process. They will need to inform people about the progress of their case, the anticipated court processes and the outcome of their case.

"The problem we have here is that our members often do not give feedback to complainants." Station commissioner, Nebo police station, Northern Province, June 2000.

"Very little, if any information on the manner in which police are dealing with the reported crime is provided to the victim." E Pelsler, A Louw and S Ntuli, Poor safety: crime and policing in South Africa's rural areas, ISS monograph No 47, May 2000.

This is referred to as the 'follow up process' and has been identified as one of the weakest areas in the delivery of police service to the public. According to the ISS' community policing and service delivery survey conducted for the SAPS in 2000, the key service requirement after reporting was that the police provide complainants with information about the status of their case.

This is also one of the main complaints about policing among those who support vigilantism. In the majority of interviews conducted for this monograph, people said they would consider reporting crimes to vigilante groups rather than the police because of the perception that once cases are reported to the police, victims receive no further information about the matter.

## What is vigilantism?

"Vigilantes was the name given to self-appointed law enforcement groups which appeared...occasionally in older communities where law officers and courts were non-existent, inefficient or corrupt; where municipal institutions were disorganised; or where established authorities seemed unable to cope with lawlessness and disorder." *Encyclopedia Americana*, 1985.

"Six elements that characterise vigilante activity are:

- Minimal planning, preparation or premeditation.
- Private agents acting in a voluntary capacity.
- Activity undertaken without the state's authority or support.
- Force is either used or threatened.
- A reaction to the real or perceived transgression of institutionalized norms.
- Aims to offer people the assurance that established order will prevail."

L Johnston, What is Vigilantism?, *British Journal of Criminology* Volume 36, no 2, Spring

1996.

Various definitions for vigilantism have been posited—the box above provides just two. All of the elements noted in the definitions above apply to various of the vigilante groups currently operating in South Africa. Mapogo-a-Mathamaga however presents an interesting exception in terms of one of the criteria—its services are not voluntary. For the purposes of this monograph, three main characteristics are regarded as important for an understanding of vigilantism:

*Acts of severe violence including serious assault and murder of alleged criminals*

For example, respondents in the ISS attitudes to punishment survey in the Eastern Cape said that vigilante activity in the areas where they lived was more likely to result in violence than in peaceful resolution of the conflict. In the majority of cases, the victims of vigilante activity were beaten (55%), killed or shot (18%). In 10% of the cases, the victims were banished from the area, or forced out of the village.<sup>63</sup>

A group of men allegedly attacked a number of homes in the township in Potgietersrus, claiming they were looking for various crimes (sic). The men allegedly kidnapped eight youths, who were assaulted with rifle butts and knobkierries...one of them, a schoolboy George Mabotje (19) was declared dead on arrival [at the hospital after being assaulted]. The Star, 29 July, 1999.

*Punishment that often exceeds the crime allegedly committed and is meted out in the absence of any form of evidence*

One of the defining features of vigilantism currently is its often harsh and swift punishment. Vigilante groups do not hesitate to punish a person severely, even in the absence of evidence. In fact punishment is often used to extract confessions.

"In February 2001, three youths were hacked to death when they tried to break into a church building in Pimville to steal chairs. They were caught after a member of the community raised an alarm." Sowetan, 21 February, 2001.

This is well illustrated by the Mapogo-a-Mathamaga's case in the Northern Province. Mapogo claims that its success in the fight against crime is due to administering *sethlare* (medicine) to criminals in the form of whipping (see box below). "Crime is out of hand, the government cannot cope, corporal punishment is the best approach" stresses the leader of Mapogo.<sup>64</sup>

Mapogo-a-Mathamaga's call for harsh and swift punishment is not unique to South Africa, but a characteristic of paramilitaries in the United Kingdom and lynch mobs in South America. For example, a study conducted in Brazil in 1980 by the Brazilian Institute of Public Opinion showed that 44% of the respondents supported lynching on the grounds that "if the courts do not act, the people must." <sup>65</sup>

We find a friend of the suspect and plead with him to tell us where his friend is or the loot is. If he refuses, we give him a taste of the medicine. After tasting the medicine he will confess. Then we give him more lashes for lying or trying to hide a friend. When we find the friend and he confesses to the crime and hands over the loot, we give him lashes too." Thomas Moeng, Diepsloot branch of Mapogo-a-Mathamaga, February 2001.

Between 1996 and 2000, many criminal charges were laid against members of Mapogo: 139 for common assault, 82 for serious assault, 23 for kidnapping, 19 for attempted murder, 13 for murder, 9 for theft and 6 for robbery. Other charges included crimen injuria, malicious damage to property, intimidation and public violence.<sup>66</sup>

### CHAPTER 3

#### Case study of Mapogo-a-Mathamaga

In the previous chapter it was argued that the main reasons for the growth in vigilantism in recent years have been rising crime, together with poor perceptions about the ability of the criminal justice system to respond, and inadequate delivery of services by the police and courts. However as the survey evidence showed, these perceptions are held by many if not most South Africans. Yet, available evidence does not show that vigilantism is supported by a majority of people and is certainly not practiced by most South Africans.

This raises the question of why vigilantism has arisen and grown to the extent that it has in certain parts of the country and not in others.

Although no comprehensive study has been undertaken that investigates all known vigilante groups in an attempt to answer this question, one explanation is that vigilantism, at its most basic, is about an organised, localised, non-state response to a particular problem or set of problems that arise in a specific place and point in time. As such, it is most likely to occur in those communities which have a strong degree of social cohesion, common values and shared identity.<sup>67</sup> Of course, these communities would also need to be facing the crime problems and the perceived or real lack of service from the criminal justice system described in Chapter 2.

This argument can quite easily be applied to an organisation like Pagad, which draws its membership largely from the Muslim community in the Cape Town area, and operates in a fairly closed and tight-knit manner, often drawing on fundamentalist slogans.<sup>68</sup> Indeed, this explanation would also help to understand the origins of Mapogo-a-Mathamaga (referred to as 'Mapogo' here) in a very different rural community in the Northern Province.

However, Mapogo has in many ways outgrown this explanation for why vigilantism may flourish in one community over another. The clearest evidence is that it has become a formal organisation with an established client base who pay for the service that Mapogo provides—the arrest and punishment of alleged criminals and the deterrent effect that these activities are intended to ensure. In doing so, the organisation has achieved that which no other similar structure has done: a growing and diverse membership that crosses the urban and rural divide, as well as the race and class divide. In South Africa—where these fault lines have characterised and split the country for more than a century—this is not to be underestimated.

Indeed, it is this achievement that makes Mapogo both a fascinating case study, but also a more serious threat to the new democracy in South Africa than other similar organisations. Mapogo was chosen as the case study for this monograph for exactly these reasons. The organisation:

- is the largest and most active established vigilante group in South Africa
- has both an urban and rural base with membership in at least five provinces
- has support from members across race and class divisions, and
- has paid-up members and operates like a private security company with price flexibility that allows it to serve the poor and the wealthy.

This chapter begins with an overview of the Northern Province where Mapogo originated. The overview covers the demographics of the province and trends in policing and crime. The latter have been widely cited as the key reasons for the wide support for Mapogo in the Northern Province. The chapter then covers the origins of Mapogo, its methods and areas of operation, the reasons why people support the organisation, and the relationships between Mapogo and various stakeholders in the province, including government. Finally, the chapter tries to explain Mapogo's success.

#### Overview of the Northern Province

Mapogo originates in the Northern Province, which is not only South Africa's second poorest province, but also an area

with high unemployment and illiteracy rates. In addition, the province is largely rural and does not have the benefit of an efficient and well resourced provincial police service. While the province undoubtedly ranks as one of the most disadvantaged in the country in terms of these indicators, the same does not apply with regard to crime levels. The Northern Province has the lowest recorded crime rate of all the provinces in South Africa. These trends—which have a bearing on the phenomenon of vigilantism—are reviewed below.

### *Demographic profile*

The Northern Province has an estimated total population of 4 929 368 people living in an 123 280km<sup>2</sup> area. The vast majority of the population (88%) reside in rural areas where traditional leaders still wield influence in justice matters.<sup>69</sup> Unemployment is rife, estimated at 41%, which is second only to the Eastern Cape province where 41.4% of people are unemployed. The per capita income is the lowest in the country,<sup>70</sup> and over 50% of the population earn less than R500 per month.<sup>71</sup> The illiteracy rate is also high with nearly half of the population (49%) without schooling or with only some primary schooling, and only 14% completing their schooling.<sup>72</sup>

All these factors arguably create a climate conducive to the growth of vigilantism because people living in the province will struggle to gain access to the police and courts. They are likely to have a limited understanding of their functioning and few resources of their own with which to offset these deficiencies.

In addition to the challenges posed by the demographics of the province, the area is disadvantaged in terms of the available policing resources and capacity. The province has a total number of 92 police stations staffed by a total of 7 980 police personnel.<sup>73</sup> This amounts to the highest ratio of civilians to police officers in the country. In 2000, for every police officer there were 682 people in the Northern Province. The ratio for the rest of the country was 424 people per police officer.<sup>74</sup> It is thus unsurprising that the police officers in the province are overworked. In 1999, Northern Province had the highest average number of cases per detective at 97 cases per detective. This was higher even than Gauteng—the province considered to be the country's crime capital —where detectives each had on average 41 cases.<sup>75</sup>

Many police stations are also understaffed and lack adequate resources to deal effectively with crime. This situation can be traced to the SAPS' inheritance, after 1994, of the many poorly trained and illiterate officers from the police forces in the former homelands of Lebowa, Venda and Gazankulu.<sup>76</sup>

### *Crime trends in the Northern Province and Central police area*

The limited policing resources together with the demographics of the province in which Mapogo originated present an environment conducive to vigilantism. Other key factors, it has been argued, are high crime levels and negative perceptions about crime.

The major complaint that led to the establishment of Mapogo in 1996 by local business people (led by Mapogo's President, Montle Magolego) was the increase in the murders of business people, burglaries and robberies in the Nebo/Sekhukhuni area. Members of Mapogo alleged that the criminal justice system was failing to protect the lives and properties of business people in the area. They further alleged that police colluded with the criminals.

The following section looks at selected crime trends recorded between 1994 and 1999 in the Northern Province and more specifically in the Central police area of the Northern Province (where the Nebo/Sekhukhuni district is located) in an attempt to ascertain if there are any links between crime trends and vigilantism as alleged by Mapogo supporters.<sup>77</sup> The analysis is based on the official crime statistics recorded by the SAPS. A comparison of crime ratios between provinces is drawn and the Northern Province is compared to South Africa as a whole in terms of three crime categories—violent crime, property crime and robbery (Table 2).

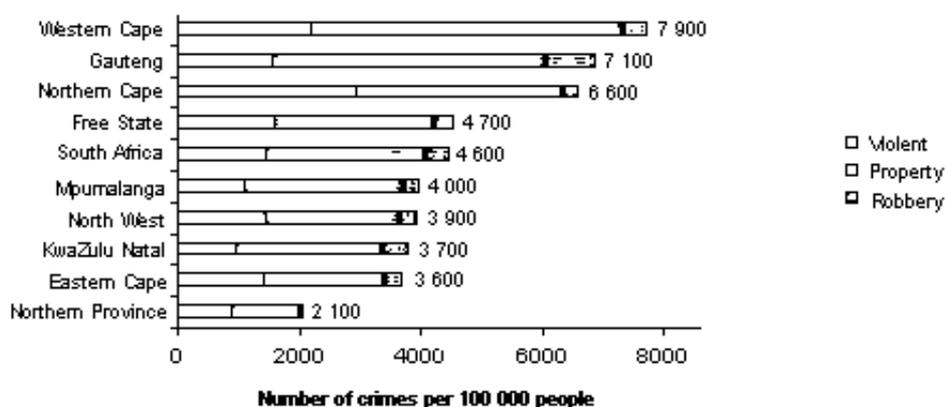
**Table 2: Description of crime categories used in the analysis**

| Violent crime | Property crime | Robbery |
|---------------|----------------|---------|
|               |                |         |

|   |   |   |
|---|---|---|
| Murder, Attempted murder, Rape and attempted rape, Indecent assault, Assault with intent to commit grievous bodily harm, Common assault | Actual and attempted burglary of business premises, Actual and attempted burglary of residential premises, Stock-theft, Theft of motor vehicles, Theft out of motor vehicles, Theft other | Robbery with aggravating circumstance, Common robbery |
|---|---|---|

When crime rates are compared between the provinces, the statistics show that the Western Cape, Gauteng and the Northern Cape have highest crime ratios in the country (Figure 2). The Northern Cape, followed by the Western Cape, Free State and Gauteng have the highest rates of violent crime. Property crime rates are highest in the Western Cape, Gauteng and the Northern Cape. The robbery rate is significantly higher in Gauteng than the other provinces. The Northern Province has the lowest overall recorded crime rate in the country, and has lower rates of violent crime, property crime and robbery than any other province. Based on available evidence and media coverage of vigilante activity, this questions the link between vigilantism and high crime rates: the Northern Province has the lowest crime rate in the country, and the Western Cape the highest—yet both have seen the development of widespread organised vigilante activity. Moreover, provinces like the Northern Cape, where few incidents of vigilante activity have been reported, have high overall crime rates, and the highest rate of violent crime in the country.

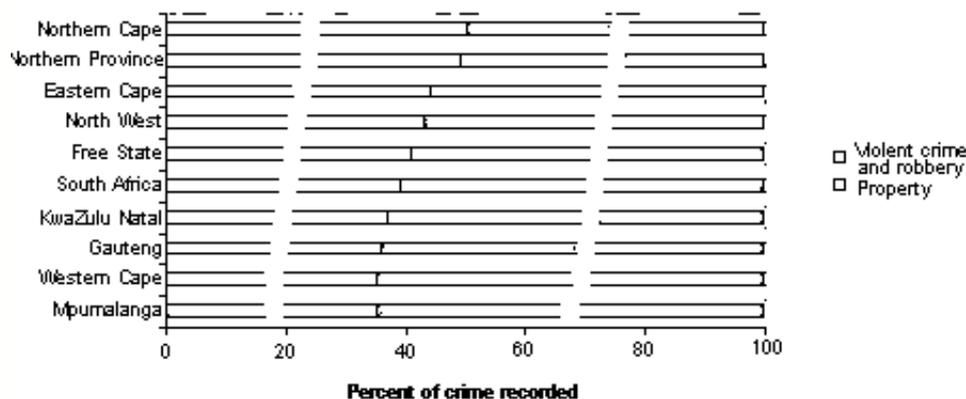
**Figure 2: Recorded crime rates, by province, 1999**



*Source: SAPS Crime Information Analysis Centre*

Based on recorded crime rates for the provinces, the only trend that is significant in terms of vigilantism in the Northern Province, is the number of violent crimes and robberies recorded as a proportion of total crime: these two crime categories accounted for 49% of all crimes (from those listed in Table 2) in that province (Figure 3). This is only slightly less than the Northern Cape (50%) which had the highest number of violent crime and robbery as a proportion of all crime. It is also significantly higher than the proportion for South Africa as a whole (39%). This trend is important because vigilantism is most often a response to the commission of violent crimes and robberies. Trends for these crimes are considered below in detail in the Central police area in the Northern Province, where the Nebo/Sekhukhuni district is located.

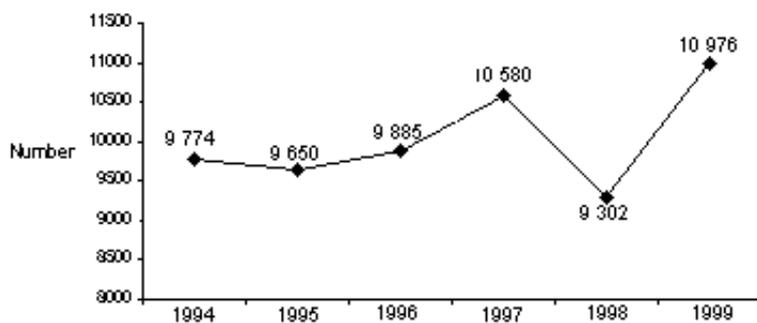
**Figure 3: Violent crime and robbery as a proportion of the total recorded crime, by province, 1999**



Source: SAPS Crime Information Analysis Centre

Violent crime increased in the Central police area by 12% between 1994 and 1999 (Figure 4). Although the concern among supporters of Mapogo was for the increasing number of murders in the area, the recorded increase in violent crimes is the result of an increase in levels of assault, not murder. Assault with the intent to commit grievous bodily harm and common assault increased by 40% and 17% respectively (Table 3). Murder on the other hand, as well as attempted murder, decreased by 47% and 73% respectively.

Figure 4: Changing level of recorded violent crime, Central area, Northern Province, 1994-99



Source: SAPS Crime Information Analysis Centre

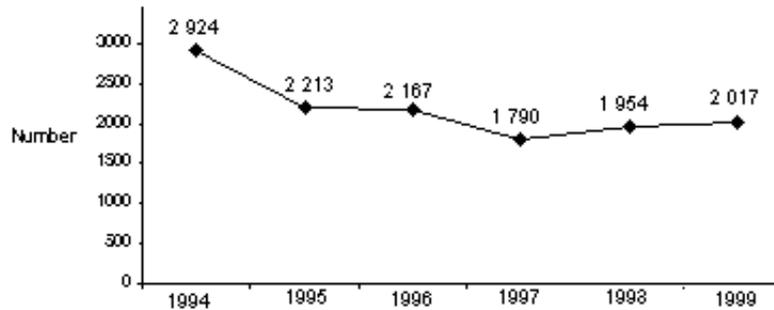
Table 3: Change in number of recorded crimes, Central police area, 1994 - 1999

|                         | 1994  | 1999 | Percent change |
|-------------------------|-------|------|----------------|
| <b>Violent Crime</b>    |       |      |                |
| <b>Murder</b>           | 501   | 264  | -47            |
| <b>Attempted murder</b> | 1 576 | 429  | -73            |

|                              |              |              |            |
|------------------------------|--------------|--------------|------------|
| <b>Rape</b>                  | <b>754</b>   | <b>1 204</b> | <b>60</b>  |
| <b>Indecent assault</b>      | <b>33</b>    | <b>55</b>    | <b>67</b>  |
| <b>Assault GBH*</b>          | <b>4 050</b> | <b>5 679</b> | <b>40</b>  |
| <b>Common assault</b>        | <b>2 860</b> | <b>3 346</b> | <b>17</b>  |
| <b>Property crime</b>        |              |              |            |
| <b>Burglary business</b>     | <b>1 784</b> | <b>1 744</b> | <b>-2</b>  |
| <b>Burglary residential</b>  | <b>2 302</b> | <b>3 631</b> | <b>58</b>  |
| <b>Stock-theft</b>           | <b>531</b>   | <b>552</b>   | <b>4</b>   |
| <b>Car theft</b>             | <b>961</b>   | <b>1 085</b> | <b>13</b>  |
| <b>Theft out of vehicles</b> | <b>2 012</b> | <b>2 740</b> | <b>36</b>  |
| <b>Theft other</b>           | <b>4 584</b> | <b>7 014</b> | <b>53</b>  |
| <b>Robbery</b>               |              |              |            |
| <b>Aggravated robbery</b>    | <b>2 263</b> | <b>883</b>   | <b>-61</b> |
| <b>Common robbery</b>        | <b>661</b>   | <b>1 184</b> | <b>79</b>  |

Source: SAPS Crime Information Analysis Centre  
\* Assault with grievous bodily harm

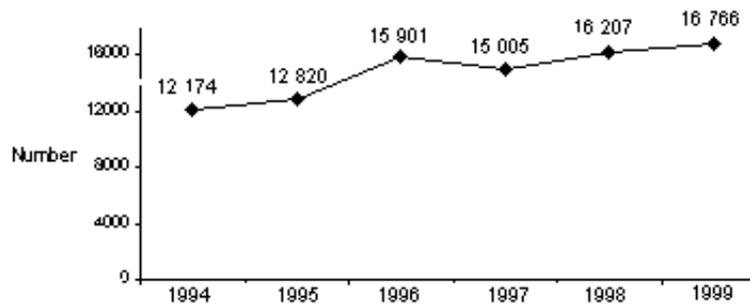
Figure 5: Changing level of recorded robbery, Central area, Northern Province, 1994-99



Source: SAPS Crime Information Analysis Centre

Robbery was also noted as a problem by members and supporters of Mapogo. Figure 5 shows that robbery actually decreased by 39% between 1994 and 1997. Since then, the number of recorded robberies has increased by 13%. This trend is interesting, given that Mapogo started operating in the area in 1996.

Figure 6: Changing level of recorded property crime, Central area, Northern Province, 1994-99



Source: SAPS Crime Information Analysis Centre

Crimes against property, and in particular burglaries of business and residential premises were cited as reasons for the formation of Mapogo. According to the statistics, property crimes increased gradually between 1994 and 1999 in the Central police area (Figure 6). In particular, burglary of residential premises increased (by 58%) and theft other (by 53%). Interestingly, burglary of business premises—which was specifically mentioned as a problem in the area by Mapogo supporters—decreased by 2% between 1994 and 1999 (Table 3). Given Mapogo's focus on combating property crime, it is possible that the organisation's activities, which began in 1996, helped to reduce the level of business burglaries. However, burglaries of businesses actually increased between 1996 and 1997, after which they decreased slightly in 1998 and increased again in 1999. There is no clear trend with regard to business burglaries, and it is difficult to gauge what the impact of Mapogo was, using these statistics.

The changing crime trends in the Central police area of the Northern Province show that levels of violent crime, property crime and robbery have increased between 1994 and 1997—a trend which could help explain the formation of, and support for, Mapogo in the area. However, a closer examination of the particular crime types that were cited by supporters of Mapogo as the reason for the formation of the group, provides no clear link either to why the organisation was formed in 1996, or to the possible impact it may have had on crime levels between 1996 and 1999.

This review of crime trends in the Northern Province and Central police area shows that it is difficult to link vigilantism

directly to crime levels—on the basis of official recorded crime at any rate. It is true that many crimes are not recorded in the official statistics, and that crime levels may have been higher in the years before Mapogo was formed. It would also have been preferable to analyse official statistics for the Nebo/Sekhukhuni area where Mapogo originated, rather than for the whole Central police area. Unfortunately, figures for this specific area were not available.

## The origins of Mapogo-a-Mathamaga

"Two members of the vigilante organisation Mapogo-a-Mathamaga were charged yesterday with killing a man whose body was allegedly fed to crocodiles...to destroy evidence." *Africa Eye News*, 14 January 2001.

For many, the name Mapogo-a-Mathamaga conjures up images of severe assaults using an assortment of weapons, shootings, feeding people to crocodiles and displacements. Mapogo-a-Mathamaga (a name derived from the Northern Sotho proverb *Ge ole nkwe nna ke lepogo ka moka re mathamaga* meaning 'if you are a leopard then I am a tiger—we are all equal in strength') started as an organisation to protect businessmen and their property. Now better known as a prominent vigilante group in the Northern Province, Mapogo was formed in August 1996 after the murder of the eighth businessman in the Sekhukhuni/Nebo area. According to one of its founder members, the organisation was established against the backdrop of unprecedented levels of crime including car hijacking, housebreaking, murder and assault: "Businessmen felt that they were being targeted by criminals in the area and that the police and the criminal justice system were failing them." 78

Initially Mapogo was formed to protect business people, but owing to its perceived success in fighting crime, particularly in the Nebo/Sekhukhuni area, other members of the community started joining the organisation. In order to serve the whole community, Mapogo changed its name from Mapogo—Business Shield, to Mapogo—Community and Business Shield. Mapogo has its head-offices in Jane Furse under the leadership of the organisation's President, Montle Magolego. Today the group boasts 72 branches with over 70 000 members throughout South Africa. Branches have recently been opened in areas as diverse as Bronkhorstspuit in Mpumalanga, Pretoria, Diepsloot, Lanseria airport in Gauteng and in Kroonstad in the Free State. Despite its healthy membership, Mapogo has, since its inception, been beset by internal conflict largely as a result of Magolego's leadership style which is perceived by many as despotic. In 1999 eight executive members left Mapogo following disagreements with Magolego after he refused their advice on various occasions regarding the method of punishment to be used against suspected offenders. Magolego's refusal to meet with government representatives and his lack of financial accountability was also thought to be divisive. When the breakaway group was unilaterally suspended by Magolego, they formed a competing organisation, Sekhukhuni se bonwa ke Sebataladi (Sebokese), which had similar objectives to Mapogo but opposed the arbitrary punishment of suspects.<sup>79</sup>

Early in 2001, Mapogo split again following allegations that Magolego allegedly misused funds, failed to declare money gained from the sale of t-shirts and stickers, violated Mapogo's constitution (joining political parties and using harsh punishment), refused to engage with the government and his persistent attempts to form a hit squad. These internal problems seem likely to result in added competition for Mapogo: after the last fall-out, one of Magolego's bodyguards who had been involved in plans to start a hitsquad for Magolego, left to form his own private security company by the name of Mapogo Crime Stop (MCS). Parking attendants in Pretoria can be spotted wearing aprons displaying MCS logo (see box below).

### Mapogo Crime Stop (MCS)

Mapogo Crime Stop is a separate organisation operating in Pretoria. The leader of Mapogo-a-Mathamaga was only made aware of MCS' existence during the course of this study. His attempts to meet MCS management have never materialised. According to MCS members, the similarity between their logo and that of Mapogo is largely due to MCS's respect for African symbolism—the heads of two tigers in the logo represent strength. Although there are no links between MCS and Mapogo, several MCS clients

believe that their business premises are being guarded by Mapogo. Similarly, car guards in Pretoria who wear aprons bearing the MCS logo believe they are working for Mapogo.

## **Areas of operation**

### *Northern Province*

Mapogo's activities are concentrated in the Nebo/Sekhukhuni area of the Northern Province. Mapogo was first established here and many founder members reside in the area. Most incidents implicating Mapogo in violence that are reported to the police are recorded mainly in the Central police area (which includes Lebowakgomo, Nebo, Motetema and Seshego) and to a lesser extent the Bushveld police area.

### *Mpumalanga*

Mapogo is mainly active in Witbank, Nelspruit and Bronkhorstspuit where the organisation enjoys widespread support. Mapogo is also active in the several farming areas in Mpumalanga, where white farmers have complained about increased attacks against themselves and their property. According to members of Mapogo, many white farmers who feel that the police ignore their plight, yet are afraid of taking the law into their own hands, have sought the services of Mapogo-a-Mathamaga.

### *Gauteng*

Regional offices are based in an informal settlement of Diepsloot near Pretoria and Mapogo also has offices in central Pretoria. Most clients in Gauteng are business people and farmers. Stickers and signs advertising Mapogo's service can be spotted in restaurants, private homes, at shopping malls and farm gates around Pretoria.

### *North West*

Mapogo has even extended its operations to the heart of the ultra conservative white Afrikaner Weerstand Beweging (AWB) in the town of Ventersdorp. The leader of the AWB, Eugene Terreblanche, was recently sentenced to six years in prison for the attempted murder of a black security officer. This is not the only association that Mapogo has struck up with the white right-wing. One of its former members in Pretoria was Gaye Derby-Lewis, the wife of Clive Derby-Lewis, a Conservative Party member convicted to life imprisonment for the murder of South African Communist Party leader Chris Hani in 1993.

### *Free State*

Although details on the exact nature of Mapogo's membership and influence in the Free State were not known at the time of writing, the organisation is believed to have opened offices in Kroonstad in 2001.

## **Method of operation**

After its establishment, Mapogo initially worked within the parameters of the law as indicated in its constitution and the memorandum handed to the former Minister of the Executive Committee (MEC) for Safety and Security in the Northern Province, Seth Nthai. In practice this meant that suspects were arrested and handed over to the police.

However, this lawful approach changed after the police released a number of suspects.<sup>80</sup> This shift from co-operating with the police to using force illegitimately, is a common phenomenon in the development of vigilantism.<sup>81</sup> Vigilantes resort to violence when police are perceived to be soft on criminals, when criminals begin to counter the vigilante threat, or when criminals are perceived to be invincible and thus deserving of harsh measures.

What distinguishes Mapogo from other vigilante groups however, is that interested parties are required to join and pay a

membership fee. Generally membership of vigilante groups is voluntary and any community member can lay charges with them or seek their assistance. In this sense, Mapogo's operation is similar to that of a registered security company in which only paying members or clients receive protection.

In order to receive Mapogo's protection, a joining fee is payable at a local branch, after which monthly payments are required. In a unique approach to providing security services, the joining fee is determined by the applicant's financial status (Table 4). Generally, fees range from between R100 and R10 000. However, there appears to be no standard fee set up by the national office, with individual branches determining their own fees. For example, in Diepsloot in Gauteng, the joining fee is R2 800 per annum across the board except for pensioners, who pay R1 000 per annum.

Given the lack of a standard fee structure for Mapogo members, and the absence of a central account, it is difficult to calculate the organisation's annual turn over. Branches are obliged to pay only 15% of their earnings into the president's account. This arrangement allows for much misuse of funds and lead to the split in the organisation (noted above) after funds went missing and could not be accounted for.

**Table 4: Approximate fee structure for Mapogo members\***

|     | Type of member    |                   |            |                           |         |                  |
|-----|-------------------|-------------------|------------|---------------------------|---------|------------------|
|     | Black members     |                   |            | White members             |         |                  |
|     | Small enterprises | Community members | Pensioners | Grobelers-daal businesses | Farmers | Compan-ies       |
| Fee | R460              | R160              | R50        | R1,000 - R100**           | R1,000  | R5,000 - R10,000 |

Source: Mapogo-a-Mathamaga headquarters in Jane Furse, May 2000 82

\* Despite several attempts, it has been difficult to clarify whether all these fees are paid for joining or as a monthly contribution.

\*\* Monthly contribution

Once a person has registered with Mapogo, they are supplied with stickers depicting two leopards' heads (Mapogo's symbol). The intention is that the markings are displayed at a business site, house or on a car, where they serve as a warning (and hopefully a deterrent) to would-be criminals. This assertion was supported by a SAPS police officer at the Erasmia police station near Pretoria, who alleged that property bearing Mapogo's stickers was often left untouched.<sup>83</sup>

With the exception of survivors of rape, only registered members are entitled to Mapogo's protection. According to Mashilo, the general-secretary of the organisation, the reason Mapogo cannot help everyone is that "Mapogo is a little against the law— often members are arrested by the police—so if Mapogo helps someone who has not paid fees, it creates problems when it comes to paying bail (for Mapogo employees)." <sup>84</sup>

Thomas Moeng, Mapogo's leader in Diepsloot, smiled with content when he described Mapogo's methods of dealing with criminals. Supporters of Mapogo claim that its success in fighting crime is due to its method of administering sethlare ('medicine', referring to a *sjambok* or whip that is dipped in traditional herbs and salt) to criminals. Mapogo's controversial president, Montle Magolego believes that "crime cannot be stopped by talking—crime can be stopped through action." <sup>85</sup> This action often amounts to little more than the torture of suspects until they either confess or identify other likely suspects (see adjacent box).

"Sometimes the sponge will just drip water, but when the sponge refuses to give you water, you have to squeeze it. This is how Mapogo operates." Montle Magolego, President of Mapogo, ISS seminar, 8 June 2001.

Magolego firmly believes the government's current response to crime will not succeed: "Crime is out of hand and the government cannot cope. Corporal punishment is the best approach. There are no suspects, just criminals. If you are caught red-handed, you are a thief. The case is not remanded, street justice is applied." 86

Within Mapogo however, there are different views about the possibilities of working with government and the administration of punishment. According to the general-secretary of Mapogo they are not going to stop administering *setlhare*, "but we want to talk to the government about destroying crime. There is interest to stop *setlhare* as the crime has gone down and more so because our members are being arrested for administering the medicine. If we work with the community policing forums, *setlhare* will be changed." 87

Indeed, Mapogo's methods have landed many of its members behind bars. While the organisation claims its success is due the use of the sjambok, various media and community reports indicate that Mapogo uses more than just a sjambok. Over 20 people have died at the hands of Mapogo and scores have been injured and incapacitated after being beaten with rods, shot, electrocuted or thrown in to crocodile infested rivers. This suggests that Mapogo is not merely an anti-crime group but is also engaged in criminal activity. As such, their methods have undermined popular support for the rule of law.

"Six members of the controversial crime-fighting group Mapogo-a-Mathamaga have been arrested in connection with the alleged kidnapping and torture of a suspended police constable." *Sowetan* 26 July 1999.

## Why do people support Mapogo?

Despite the negative image of Mapogo, the organisation appears to enjoy widespread support in the areas in which it operates. However the reasons for this support differ from one community to another. Within the business community in the Northern Province the feeling is that since Mapogo was formed, the number of break-ins have decreased considerably and the organisation therefore acts as a deterrent. Their success is attributed to their speedy reaction when a crime is reported, the apprehension of the alleged criminals and the recovery of the stolen goods. Other community members in the Northern Province similarly believe that the areas where Mapogo operates have become much safer. Even the police in Nebo claim that levels of assault and robbery, especially over weekends, have dramatically decreased with the arrival of Mapogo.<sup>88</sup>

However, some Mapogo supporters are motivated by more than the desire for crime prevention. Mapogo has also attracted the support of some opposition parties, in what appears to be an attempt to discredit the ruling ANC government and question its ability to control crime. The Pan Africanist Congress (PAC), for example, believes that the ANC government has failed in the war against crime and as a result it supports Magolego's actions.<sup>89</sup> Mostly however, Magolego is associated with the political right. He is believed to have been a supporter of the National Party during the 1980s. It is alleged that to have acquired a business or a political position in the former Lebowa homeland, support for the National Party was a prerequisite. Prior to the 1994 elections, Magolego had approached the Inkatha Freedom Party to negotiate membership and in the 1999 elections he stood as a candidate for the United Democratic Movement (UDM).<sup>90</sup>

"No matter how noble the intentions of Mapogo were when it was founded, by aligning itself with the racist farmers and business people who have committed crimes of their own against our people and then having the likes of Gaye Derby-Lewis among its members, places it beyond the pale of any respectability in the black communities." *City Press* editorial, 11 July 1999.

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In 1999, Magolego joined the UDM and was due to take up a seat in parliament but withdrew due to the crisis that this brought about within his own organisation. There is ample evidence that Magolego has political aspirations. During an interview in Glencowie in 2000, he declared "I would like to bring together all other anti-crime groups to form a coalition. The main focus of the coalition would be to advocate for harsher measures [against crime]. I do not exclude the possibility of turning this into a political party." 91

More intriguing is the support for Mapogo from conservative quarters. The fear of violent attacks, particularly among commercial farmers, has resulted in desperate measures being taken. These include reporting visitors to the local commandos and setting up access controls in certain farms. In some cases, farmers have been accused of racism and there have been reports of innocent people being beaten and murdered by farmers. It has also been alleged that some farmers use Mapogo to settle labour disputes with their labourers. Workers claim that every time they raise concerns about working conditions, the threat is made that Mapogo will be asked to intervene.<sup>92</sup> In some cases Mapogo members have actually been called to farms and have threatened or assaulted farm workers.<sup>93</sup>

Magolego has made it no secret that his organization is more than willing to assist farmers in their efforts to control activities on their farms: "When a farmer beats up a black person, it is called racism. We in Mapogo have invited farmers to join and Mapogo will do the beating on their behalf" says Magolego in response to allegations that some white members of Mapogo are racist.<sup>94</sup> Several media reports about why farmers have joined Mapogo suggest that farmers have jumped at the opportunity offered by the vigilante organisation. There is the belief among some in the sector that crime is largely a 'cultural' phenomenon in the black community and thus requires a solution that draws on this 'culture' (see box below).<sup>95</sup>

"I know a black man through and through...I understand him, and democracy undermines the black man's historical bloodliness (sic) and traditions...It is ruthless, the beating, but that is how these chaps grow up. I don't like what happens, but it has to happen; it's a system devised by a black man for the black man—and it works. The blacks are like children: you have to be harsh and hard." Interview with Peter Drake, farmer and Mapogo-a-Mathamaga branch member, by D Aitkenhead, *Rough justice, Mail and Guardian*, May 29 2000.

This issue has influenced support for Mapogo among traditional leaders. Some traditional leaders have been angered by Magolego's assertion that his methods are akin to the African model of justice. To ease tensions, he would visit their homes to pay homage. Not all traditional leaders however hold this view. Some support Magolego, believing that the new constitution's position on the abolishment of corporal punishment is unreasonable and contributes to the increase in crime. They believe Magolego is helping to revive disciplinary measures familiar to African culture. It is also likely that some traditional leaders, aggrieved by the ANC-led government's attempts to eradicate traditional leaders from the political landscape, see Magolego as asserting the need for traditional means of dealing with issues in African communities. Among the traditional leaders supporting Mapogo are also those who simply want the businesses that they own, protected.<sup>96</sup>

For the general population however, the attraction to Mapogo is simply that it responds to the growing sentiment that the new constitution and the government are 'crime friendly'. In the words of its leader, "We do not consider that a criminal has human rights. He has got no right to keep his mouth shut when asked to tell the truth about crime...we believe in corporal punishment."<sup>97</sup>

This view even extends to members of the ruling party: in the recent past Mapogo has managed to contract its services to the ANC provincial office in Mpumalanga. During 2000, ANC officials in Mpumalanga hired Mapogo to protect the new legislature building. The building was still under construction and had been the target of many incidents of theft and vandalism. Although the issue of hiring Mapogo was controversial and irked the ANC national office, it pointed to Mapogo's wide ranging influence on security matters in South Africa. Magolego's relations with the ANC and its allies remains confrontational. In 2000, the ANC sent out a memorandum calling all its members in Mapogo to resign with immediate effect or face disciplinary action.

Despite the support for Mapogo's methods, evidenced by its substantial membership base, those who have been exposed to

the violence of the vigilante group think differently: "I am afraid of Mapogo's medicine" is how most people interviewed for this monograph responded to the question of how they perceived Mapogo. Although many agreed that since Mapogo was formed, crime has decreased remarkably, they nevertheless do not approve of the methods used. Mapogo's brutality led youths in Mphanama and Eenzaam in the Northern Province to openly defy the organisation and boycott businesses owned by Mapogo members. In Mphanama youths stoned and burnt shops and houses belonging to Mapogo members following the murder of Whitey Makola by Mapogo footsoldiers in August 1997. In Tafelkop in Mpumalanga, the anti-Mapogo group Maputla re tla ja kae was established. Although Maputla forced the closure of a number of shops displaying the Mapogo logo, little has been heard of the group since. The rejection of Mapogo is encouraging, but these cases illustrate how vigilante activity inevitably leads to more violence rather than less.

"(The leader of Mapogo) reads the souls of black businessmen, white farmers and Pietersburg suburbanites like so many comic books. And that is the secret to his extraordinary success as an entrepreneur, to his ability to sell his product across rural South Africa's sharpest and most intractable social divides." J Steinberg, Marketing vigilantism, *Business Day*, 12 July 2001.

What then is the reason for Mapogo's success? It is clear that Magolego bravely and openly challenges the government's failure to curb crime. More importantly his methods find favour with many members of the public. Magolego is famous for not just talking tough but acting tough. It is his maverick, fearless and committed leadership style that makes Mapogo what it is. Proof that Mapogo relies heavily on its president's personality lies in the failed attempts to oust him from this position. It is likely that the leadership and personality provided by Magolego are key factors that explain the origins and support for Mapogo, when other communities with higher crime levels and equally poor perceptions of the criminal justice system do not engage in similar vigilante action.

## The state's response to Mapogo

Soon after its formation, Mapogo made several attempts to engage the Northern Province office for Safety and Security. On 25 August 1997 the MEC for Safety and Security signed an agreement with Mapogo in which both parties acknowledged that poor service delivery had resulted in increased crime levels. The MEC promised to look into Mapogo's allegations that the SAPS failed to respond to their complaints, and in turn Mapogo was requested to co-operate with the police and not assault suspected criminals. The relationship appeared to work at first but soon floundered owing to Mapogo's use of brutal and illegal means to fight crime. Magolego believes that the clash between his organisation and the ANC-led Northern Province government intensified when he announced his candidature for the United Democratic Movement.

The SAPS in the Northern Province subsequently arrested hundreds of Mapogo members including Magolego himself on various charges such as murder, assault and attempted murder. Between 1996 and May 2000, at least 308 Mapogo footsoldiers were arrested.<sup>98</sup> In August 2000 Magolego and 11 other members were acquitted of murder and assault charges due to conflicting eye-witness evidence.

It does however appear that Magolego's luck is running out. In October 2001 he was arrested for the murder of a former chairperson and Mapogo member, after eluding the courts in the Northern Province for over four years. The case began in May 1999 when the chairperson of Mapogo in Greater Phalaborwa, Motlatsi Mafisa, went missing. Mafisa was later found dead with multiple wounds. According to the investigating officer, Mafisa was accused of failing to account for R60 000 of the organisation's money. Magolego and seven other suspects were initially refused bail because of fears that he would tamper with the investigation and interfere with witnesses. However, he was eventually granted R50 000 bail. The other suspects were granted bail of R10 000 each. All but one suspect is out on bail and the case has been postponed until February 2002 for the decision of the Director of Public Prosecutions. Despite the high number of arrests, at the time of writing, only 14 of Mapogo's footsoldiers had been convicted of various offences including murder, theft, robbery, attempted murder and assault with intent to cause grievous bodily harm. According to a police investigating officer, the reason for the low conviction rate is the intimidation by members of Mapogo of witnesses and police officers involved in the investigations.<sup>99</sup> The low conviction rate and large number of cases against Mapogo that were withdrawn, prompted the National Prosecuting Authority (NPA) to announce in October 2000 that it would set up a special task team to probe the group's activities in the Northern Province and investigate the more than 200 cases against Mapogo.<sup>100</sup> At the time of writing however, there have been few developments in this regard.

The importance of prosecutions and convictions cannot be overstated. Already the arrest and prosecution of Mapogo footsoldiers has decreased the group's activities. It appears that most of the people who have been arrested were those who carried out the beatings of suspected criminals. This, together with concerns about police and NPA investigations, could be the reason for the recent decrease in Mapogo's activities, particularly in the Northern Province. The Gijima Tsotsi, a specialised police unit, was also investigating cases against Mapogo members in Mpumalanga.

## CHAPTER 4

### Conclusion: Making criminal justice work

Vigilantism has been explained as a collective response to high crime levels and a slow and inaccessible criminal justice system. There is much evidence that government has acknowledged these problems and is taking action. Within the criminal justice sector, many new pieces of legislation, policies and strategies have been developed since 1994. To illustrate this, the chapter reviews selected initiatives taken by the Departments of Safety and Security and Justice and Constitutional Development that could reduce levels of vigilante activity. These initiatives are discussed below in five categories:

- Improving the functioning of the criminal justice system as a whole
- Improving the conviction rate
- Improving service delivery to the public
- Enacting laws that are 'tough on offenders'
- Assisting the police and courts through crime prevention partnerships.

As the concluding chapter in this monograph, it is argued that the threat of vigilantism can only be reduced by providing a formal justice system that works—and that is seen to work. To this end, a conscious effort must be made not only to improve the quality of policing and prosecution processes, but also to publicise and communicate convictions for serious crimes. These and other recommendations are explored at the end of the chapter.

### Improving the functioning of the criminal justice system as a whole

Initiatives aimed at improving the functioning of the criminal justice system as a whole are important in the context of vigilantism, since supporters believe that the system is too slow and that it benefits the accused above the victims. Moreover, problems such as case dockets going missing and high withdrawal rates due to the inability to trace witnesses, complainants or evidence, encourage the public to question the point of participating in the formal criminal justice process. The Integrated Justice System project is government's most important attempt to improve the functioning of the system as a single unit.

#### *Integrated Justice System (IJS)*

As one of the key projects of the 1996 National Crime Prevention Strategy, the IJS aims to transform the criminal justice system "into a modern, efficient, effective and integrated system" by removing blockages and managing the accused and his or her case, together with the evidence, through the system as quickly as possible.<sup>101</sup> Begun in 1997, the project is managed by a board that represents the Departments of Safety and Security, Justice and Constitutional Development, Correctional Services, and Social Services and Population Development, with the assistance of a Business Against Crime project office that helps co-ordinate the inter-departmental project.

In its initial stages, the IJS identified many blockages that impeded the effective operation of the criminal justice system. These related to, among others, functional and business integration, policy alignment, timeous access to criminal record history, timely notification of events, imbalances in the level of automation of departments and incompatible information technology, and lack of quality information and information sharing.

In 1998 Cabinet approved a report of the IJS board that identified six systems as the minimum necessary components of an integrated criminal justice system:

- Identification services, allowing for the identification of people within the system.

- Criminal history information management, allowing for easy access to criminal record information by those components of the system that need it.
- Docket management by the police and the prosecution service.
- Event notification to reduce court delays and non-appearances of witnesses and complainants.
- Business intelligence to support the entire system.
- Information technology (IT) infrastructure to support the entire system.

Rather than overhauling the whole criminal justice system, the IJS is tackling different components of the system in an affordable and manageable approach. Some of the better-known projects are the awaiting trial prisoner project, inmate tracking system, Automated Fingerprint System (AFIS), and the criminal record and history information system.

The project has been criticised for taking too long to show tangible results and for being too IT oriented. However, the IJS is one of the few interdepartmental projects to secure a budget and start projects across different departments. Given the importance of making the criminal justice system operate as one rather than three distinct systems, this is a significant achievement. It is also likely that with improvements in its management system and more realistic budget projections, the IJS will deliver results more quickly in the coming years.

## Improving the conviction rate

One of the main complaints of followers of groups like Mapogo, is that too many criminals are 'let off the hook' due to problems with police investigation and court procedure. Many of these perceptions may be based on a lack of understanding about the justice process. However, based on the statistics discussed in chapter 2, there is little doubt that conviction rates are low, particularly for serious violent crimes such as car hijacking and rape. The SAPS has attempted to improve the standard of investigations by creating special units dedicated to particular crime problems. A similar approach informed the creation of the Directorate of Special Operations (or Scorpions) in the National Prosecuting Authority (NPA). The NPA has taken several other measures, including establishing special sexual offences courts, in an attempt to improve the conviction rate.

### *SAPS special investigation units*

For decades the SAPS has followed the practice of creating special units to investigate particular types of crime. This resulted in the establishment of 503 specialised units by 2001 in a detective service consisting of approximately 21 797 detectives.<sup>102</sup> Units focused on a wide range of crime problems such as murder and robbery, hijacking, firearms, organised crime, drugs, family violence and sexual offences.

Among the units established were those aimed at arresting perpetrators of vigilante activities. The Tsolo-Qumbu Task Team was established in the Eastern Cape following the recommendations of the Kroon Commission into violence related to stock theft in the province.<sup>103</sup> Similarly the Mapogo Unit was formed in the Northern Province to deal specifically with Mapogo-a-Mathamaga's activities, as was Gijima Tsotsi in Mpumalanga. In the Western Cape, the Peoples Crimes Against the State Unit formally known as the Pagad Task Team was established, drawing members from the SAPS murder and robbery unit.<sup>104</sup>

Although the success of anti-vigilante units has not been evaluated, announcements in January 2000 that about 7 000 detectives formerly based at the specialised units would be re-deployed to station level, are significant. According to SAPS management, the main motivation is to boost the capacity for crime investigation at station level. Although not stated explicitly, another important reason is no doubt the performance of the specialised units which appears to be less impressive than the station level detectives who investigate less serious crimes.<sup>105</sup>

If conducted appropriately, the rationalisation is likely to improve the standard of investigations particularly since two new units have been created—the Organised Crime Unit and the Serious and Violent Crime Unit. Given the degree of specialisation required, several units will remain unaffected by the restructuring announced thus far. These include the Commercial Branch and the Family Violence, Child Protection and Sexual Offences Units. This is a positive step in the context of vigilantism, since these are the types of crime that often lead to vigilante acts against suspects. A potentially problematic development however, especially since corruption is a key concern for supporters of vigilantism, is that the

former Anti-Corruption Units are to be absorbed into the Organised Crime Unit. It will be difficult for detectives in the new units to investigate their colleagues—particularly since organised crime more often than not operates with the assistance of corrupt police officers.<sup>106</sup>

### *The National Prosecuting Authority (NPA)*

The South African Constitution required the establishment of a new prosecuting authority. In 1998, parliament passed the National Prosecuting Authority Act which spells out the details of a new prosecutorial system for the country.<sup>107</sup> The priorities of the NPA are:

- Improving the quality of performance by prosecutors, including delays and backlogs in the disposal of cases.
- Fighting organised crime—the Directorate of Special Operations (Scorpions) committed itself to bringing down at least five major crime syndicates in 2001, and the Assets Forfeiture Unit aimed to seize R250 million from criminals.
- Developing a service culture in the NPA.<sup>108</sup>

The NPA has enthusiastically adopted a more business-like approach to its work and prioritised the development of management capacity and a long-term plan to attract and retain skilled personnel to the prosecution service.

It is too early to assess the success of the NPA, but the latest available statistics indicate that courts remain a bottleneck in the criminal justice process: the number of unsentenced prisoners continues to increase and the average period prisoners spend awaiting trial has increased. Moreover, convictions as a proportion of cases referred to court remain low, especially for serious violent crimes. This is however against the backdrop of an increased workload facing the courts. On the positive front, there has been a slight decrease in the number of outstanding cases that courts have to deal with, mainly because of increased court hours through the establishment of Additional and Saturday courts. In terms of fighting organised crime, the Assets Forfeiture Unit has since May 1999 seized more than R210 million, most of which was returned to the victims of the crime.<sup>109</sup>

### *Directorate of Special Operations (DSO)*

The DSO (Scorpions) came into being in June 1999 when the President announced that a special adequately staffed and equipped unit would be established urgently with a mandate to investigate and prosecute national priority crimes, including police corruption.<sup>110</sup> In October 2000 the national assembly amended the NPA act of 1998 to establish the Directorate of Special Operations as an investigating directorate of the NPA. The DSO is unique in that its functions include:

- Investigating crime.
- Gathering and analysing crime information.
- Instituting criminal proceedings relating to offences or any criminal or unlawful activities that occur in an organised fashion, or such offences or categories of offences as determined by the President on the recommendation of the Minister of Justice and Constitutional Development and the Director of Public Prosecutions.

The rationale behind the DSO is to integrate three functions which are traditionally separate: intelligence, investigations and prosecutions. Thus the DSO consists of special investigators, intelligence operatives and specialist prosecutors operating together in project teams.<sup>111</sup> Although it is too early to establish the effectiveness of the approach, it is anticipated that the use of prosecution-driven and intelligence-led investigations will result in higher conviction rates for particular types of crime.

### *Sexual offences courts*

In September 1999, the sexual offences and community affairs departments were established in the National Prosecuting Authority. The department aims to set up 20 sexual offences courts countrywide to deal with crimes against women and

children, along with one-stop centers and charge offices at hospitals. The aim of the specialised courts is to improve the handling of victims and witnesses and, by developing specialist prosecutors, achieve more effective prosecutions and convictions.

The specialised court approach is not new in South Africa, with the first such court established in Wynberg in 1993. By the end of 2000, 15 more courts were up and running across the country and 375 police officers, social workers and prosecutors had been trained. A further 12 courts were due to open in 2001. The courts are considered a step in the right direction. However it remains to be seen whether they can achieve their aims given the high case load and apparent failure to learn from existing specialist courts. Specific problems in the running of the courts include insufficient space in the court buildings, and too few trained intermediaries, prosecutors and magistrates to staff the courts.<sup>112</sup>

## **Improving service delivery to the public**

The police are often singled out as being responsible for shortcomings in the criminal justice process, such as when accused are 'unfairly' granted bail and released from custody. Supporters of vigilantism cite inadequate service from the police (more often than the courts) as one of the reasons why they take the law into their own hands. Some complaints, such as those relating to the bail process, are unjustified. However, the key to improving public understanding of the criminal justice process is to improve the front-line service to complainants and witnesses in police stations and courts. The SAPS has taken the lead in this regard as demonstrated by its Service Delivery Improvement Programme.

### *SAPS Service Delivery Improvement Programme (SDIP)*

The project was initiated by the South African Police Services in 1998 and is intended to provide a management tool to improve the quality of service to the public and the functioning of the police. The SDIP originates from the Department of Public Service Administration's White Paper on Transforming Public Service Delivery (Batho Pele) and the subsequent Public Service Regulations of 1999. The latter came into operation in July 1999 and compel all government services to establish and sustain service delivery programmes:

- Specifying the main services to be provided to the different types of actual and potential customers, as identified by the department.
- Containing consultation arrangements with the department's actual and potential customers.
- With due regard to the customers' means of access to the service and the barriers to the increased access thereof, specifying the mechanisms or strategies to be utilised progressively to remove the barriers so that access to services is increased.
- Indicating standards for the main services to be provided.
- Containing arrangements as to information about the department's services.
- Stipulating a system or mechanism for complaints.<sup>113</sup>

Some difficulties have been noted in the implementation of the police's SDIP, including the slow progress in moving beyond training towards problem solving, and doubts among police officers about whether the resources and management support would be available in practice to solve the problems they identified at station level. Nevertheless, most police officers support the SDIP and survey results aimed at testing client perceptions of police service delivery were found to be generally positive.<sup>114</sup>

However, it is in the area directly relevant to the problem of vigilantism that service was the weakest. Police officers, both in the charge office and the detective service rarely provided complainants with information about what to expect from the criminal justice process or follow-up on the progress of their cases. As noted in chapter 2, this is a key complaint raised by supporters of vigilante activity and acknowledged by some SAPS members working in affected areas such as the Northern Province.

### *Improving service delivered by prosecutors*

One of the National Prosecuting Authority's priorities for 2001 was developing a service culture which includes ensuring customer satisfaction, creating mechanisms that prevent secondary victimisation, ensuring that customers understand the services provided by the NPA, and ensuring that the NPA services are accessible to all who require them, particularly the previously disadvantaged.<sup>115</sup> The establishment of sexual offences courts and special multi-disciplinary centers (reviewed above) are in line with the objective of developing a service culture. In addition, the NPA commissioned the ISS to conduct a survey in late 2001 of public perceptions of service in courts across the country. The intention is to use the data to improve service and to monitor service delivery over time.

## **Enacting laws that are 'tough on offenders'**

Claims abound, as discussed in chapters 2 and 3, that the current system of justice does not deter criminals, that the courts are too lenient and—implicit in the actions of Mapogo—that the courts do not mete out appropriate punishment for offenders. The views, common among supporters of vigilantism, that the country's constitution is 'soft on criminals', that government has lost control of the situation and that existing laws do not take into account the constraints within which the police and courts operate, have no doubt influenced the passing of laws that are tough on offenders.

### *Bail legislation*

The perception that criminals are too easily granted bail is one of the main causes of dissatisfaction with the criminal justice system. Several cases have been reported in which accused who have been released on bail are attacked by people from the community where the alleged crime was committed. In an attempt to address this problem, the bail legislation was amended in 1997.<sup>116</sup> The amendment came into effect in August 1998 and places the onus on persons accused of serious violent crimes to show why they should be released on bail—thus making it harder for them to get bail than in the past when the onus was on the prosecution.

Ironically, while representing an attempt to get tough on crime, this move has increased prosecutors' workload and the number and length of time of formal bail applications. This is because the prosecution has to cross-examine the accused to show that the latter's reasons are not sufficient to warrant bail. Also, the prosecution is in most cases obliged to call witnesses in order to oppose bail successfully, which takes time. The impact has been felt most strongly in the regional courts because since the amendment came into effect, bail applications for those accused of committing serious violent crimes must be heard in the regional court unless special reasons apply.<sup>117</sup>

Those supporting tough measures against criminals are unlikely to be concerned about the consequences of these changes such as the dramatic increase in the number of unsentenced prisoners in the country's jails. But the delays and additional workload for prosecutors have a negative overall effect on the performance of the criminal justice system—which ultimately encourages people to take the law into their own hands instead of using the formal justice system.

### *Minimum sentencing legislation*

In terms of the Criminal Law Amendment Act of 1997, persons convicted of certain serious crimes must be given a mandatory minimum sentence unless the magistrate or judge imposing the sentence is "satisfied that substantial and compelling circumstances exist which justify the imposition of a lesser sentence".<sup>118</sup> The Act, which came into effect on 1 May 1998, provides for the imposition of heavy sentences such as life imprisonment for murdering a police officer, for the rape of a woman under the age of 16 years, and for gang rape. The prescribed sentence for vehicle hijacking is 15 years imprisonment.

A study undertaken by the South African Law Commission on the implementation of the minimum sentencing legislation found that while sentences had increased since the passing of the Act, they were still generally below those prescribed as minimum sentences.<sup>119</sup> The authors did note however that it might be too early to understand the full impact of the Act. Importantly in the context of vigilantism, the study noted that it remains difficult to conclude that tough sentences lead to a reduction of crime:

"The question of sentencing therefore remains irrelevant to the vast majority of people who committed those crimes. Until the conviction rate improves dramatically it is difficult to see how tough minimum sentences will be an effective deterrent to thousands of criminals who evidently do not get apprehended and successfully prosecuted." 120

These findings suggest that the minimum sentencing legislation is unlikely to have an impact on levels of vigilantism at this stage. This is because the sentences handed down are still relatively lenient (more so than those prescribed in the Act). In addition, the deterrence factor associated with tough sentencing relies on more than just the sentence: offenders must be apprehended, prosecuted and convicted expediently in order for the public to believe that the criminal justice system can offer them some protection.

### *Draft Anti-Terrorism Bill*

The draft bill, released during 2000, is significant here because its development was encouraged by the ongoing violence and bombings allegedly committed by Pagad in the Western Cape. As such, it can be argued that the bill aims to clamp down not only on terrorism but also on vigilante activity which fit the definitions as laid out in the bill. The bill, which aims to address terrorism and a variety of related crimes in one piece of legislation, contains some controversial provisions such as proposals that suspects can be detained without charge or trial for up to 14 days, and a very broad definition of terrorism.

A terrorist act is defined as "any act which may cause damage to property and is intended to disrupt public service".<sup>121</sup> The definition therefore includes law-breakers who in the normal meaning of the word would not be terrorists but who act in a way that disrupts public service and damages property. Apart from the very broad definition, the bill also reflects an attempt to 'get tough on offenders' in its prescription of a mandatory sentence—life imprisonment—for anyone convicted of a "terrorist act". The draft bill also proposes 14-day detention of anyone when there is reason to believe they possess or are withholding information about any offence in terms of the bill. Such a person can then be interrogated "until he or she has satisfactorily replied to all questions under interrogation".<sup>122</sup> This would effectively lead to detention without trial and is in direct conflict with the constitutional right of a fair trial.

### **Assisting the police and courts through crime prevention partnerships**

A lack of community involvement is rarely mentioned by supporters of vigilantism as a shortcoming in the crime reduction effort. However, responsibility for preventing crime is shared between government and civil society. The police rely on members of the public to report crime, provide information about cases, supplement police capacity by assisting with patrols, or reinforce the social controls that deter family or peers from committing crime. And once cases are brought to court, members of the public are required to act as witnesses in order to secure a conviction. Achieving safety and security—and an effective justice system—thus requires that the public and the relevant officials work together. This has been recognised by government, and is expressed in the community policing policy and efforts to formalise community based dispute resolution structures.

### *Community policing*

Community policing aims, through the establishment of broadly representative Community Police Forums (CPF's), to set up active partnerships between the police and the community through which crime, service delivery and police-community relations challenges can jointly be analysed and resolved. The policy was first articulated in the 1997 Community Policing Policy Framework and Guidelines. Since then, the 1998 White Paper on Safety and Security affirmed community policing as the approach to policing in South Africa, but directed the CPF's to begin working with local government to ensure social crime prevention and community mobilisation against crime.<sup>123</sup>

Despite support at the policy level, within the line functions of the SAPS, and even from the President in his opening address to Parliament in June 1999, eight years after establishing the CPF's, clear direction or meaningful government support to these structures remains a problem.<sup>124</sup> The result has been that few CPF's have been able to fulfil their intended functions. This was confirmed by a recent survey conducted by the ISS for the SAPS among 17 231 respondents living in 45 of the police's 219 priority station areas. The research indicated that CPF's have generally been unable to tap support from community-based organisations, or to mobilise participatory community crime reduction initiatives.<sup>125</sup>

### *Sector Four in Alexandra*

One community policing project that has had some success in terms of developing effective local projects is Sector Four in Alexandra, a suburb of Johannesburg. Sector Four was started in August 1999 as part of the SAPS' sector policing initiative which saw Alexandra being divided into six sectors.<sup>126</sup> The local SAPS station commissioner approached

community leaders in each sector to develop ways of working together to combat crime. However, only the fourth sector took up the challenge.

Sector Four is comprised of at least 10 executive members with over 200 community members participating in patrols. The aim of the group is to work with the police to reduce crime. The secretary of the group is a SAPS member whose role it is to ensure that Sector Four does not operate outside the law and that relations between the police and the group remain strong. The success of this approach is evident in that when making an arrest, the group immediately phones the secretary and requests police backup.

Sector Four has been successful in confiscating at least 100 unlicensed firearms, reducing robberies especially over weekend nights and breaking down some gang activity since their establishment in 1999.<sup>127</sup> Initially the group operated only within sector four in Alexandra. However, at the beginning of 2001 they were invited to extend their operations to other parts of the township as a result of their achievements. An important element of their success has been the willingness of certain members of Sector Four to testify in court as witnesses, thereby reducing the rate of case withdrawals and increasing the chances of securing a conviction.

Nevertheless, the group faces a number of difficulties:

- The SAPS often responds slowly when Sector Four requests backup.
- The lack of uniforms and means of identification which makes people resistant to searches and seizure.
- Physical danger—in late 2001, three of their members were shot dead while on patrol.
- The lack of equipment such as two way radios and transportation.
- Many members are unemployed and the lack of funding for petrol to transport alleged criminals, for example, hampers much of their work.<sup>128</sup>
- Despite these setbacks, Sector Four is made up of dedicated residents who have managed to lobby community support and take action against crime using non-violent, legal methods. Sector Four epitomises a successful initiative in which community members work in close partnership with the local police and thus have no need to resort to vigilante action. Of course such an initiative can only succeed if the police are willing to work with people in their area.

### *Community dispute resolution structures*

In 1996 the South African Law Commission (SALC) began an investigation into alternative dispute resolution which culminated in a discussion paper on community dispute resolution structures.<sup>129</sup> The paper (which explicitly excluded vigilantism from its discussion), identified the following factors as some of the reasons why people support alternative forms of justice:

- The perception that the legal system was illegitimate as it was associated with the apartheid government.
- The formal justice system was repressive.
- The formal system is expensive and thus prohibits justice.
- The formal system superimposes foreign, dominant and a Western legal system on an intuitive, indigenous legal system.
- The formal system fails to deal with problems faced by people in their daily lives.

While the paper addresses the need for community-based structures, it focuses on less serious disputes that could be handled through 'community forums' which are not courts but dispute resolution and peace-making structures.<sup>130</sup> Although the proposals are worthwhile, the community forums are not intended to deal with the serious crimes that often lead to people taking the law into their own hands. As such, community forums could enhance crime prevention partnerships, but would not necessarily reduce vigilante activity.

## Recommendations

This monograph has argued that the main reason why people support vigilantism today relates to weaknesses in the criminal justice system and particularly the long period of time taken to deal with criminal cases. The review of policies and strategies above shows that there are many government initiatives in place to deal with these problems. Certain factors may however limit the impact of these approaches. These factors are presented below within the context of four recommendations which are listed in italics at the start of each discussion.

### *Publicise, on an ongoing basis, the convictions of perpetrators of serious and violent crimes, and corruption*

The main factor limiting the impact of the initiatives described above on vigilantism is that many are likely to show positive results only in the medium to long term. Examples include the IJS project, the Sexual Offences Courts, DSO (Scorpions) and Assets Forfeiture Unit. As a result, these initiatives are unlikely to change the fact that many vigilante acts are committed because people have no faith in the criminal justice process. To make matters worse, the media focuses largely on acts of criminality and the failings of the system. To offset this, communication strategies should be developed that publicise the successes of criminal justice initiatives. In particular, the public should be notified when perpetrators of serious offences, violent crime and corruption are convicted.

### *Prosecute those guilty of vigilante activity*

Another limiting factor is that despite several efforts by the police to investigate vigilantism, government has yet to send out an unequivocal message that these activities will not be tolerated. In some cases, government initially turned a blind eye to acts of vigilantism. Given the already high levels of public support for vigilante activity, the lack of sanction encourages the problem and further undermines the rule of law.

A targeted and visible approach that focuses on prosecuting those who commit vigilante acts, and the public condemnation of vigilantism by safety and security leaders, is required.

### *Improve the information provision aspect as outlined in the White Paper on Transforming Public Service Delivery*

Another limitation of the initiatives outlined above relates to the implementation of service delivery policy. Although some aspects of service delivery are improving (in the police at any rate), the key weakness remains the provision of information to the public about the criminal justice process.

Analysis has shown that one of the reasons why people support vigilantism is the lack of information about proceedings in the criminal justice system. People are unsure about what to expect when reporting a crime and how the system will work once they do—especially in terms of bail. One of the major complaints is the lack of feedback about the progress of cases and outcomes of court proceedings. This is compounded by the inaccessibility of courts and the alienating environment that many complainants and witnesses have to contend with.

More attention should be paid to the White Paper on Transforming Public Service Delivery (Batho Pele) which stipulates that all government departments should improve service delivery to their clients. This includes not only dealing with complaints and cases brought by the public, but also providing information about how each service works, what people can expect from the service provider, and instituting mechanisms for lodging complaints. By improving this aspect of service delivery, officials in the police and courts could, in the process of their day to day activities, quite easily meet the frequently cited need for public education on the functioning of the criminal justice system.

### *Encourage community crime prevention partnerships*

Despite policy on community policing and high level political support, functional partnerships between members of the public and agencies of the criminal justice system remain limited. In the case of community policing, they are limited by the lack of clarity about roles and how to co-operate effectively.

As the case of Sector Four shows, effective community-police partnerships can reduce the chances that people will resort to vigilantism. They can also assist the police by conducting patrols and arresting alleged criminals, and help victims by providing information about cases and support during court proceedings. As such, Sector Four provides an avenue for constructive and legal participation in crime fighting efforts. Such focused partnerships, where roles and responsibilities are clear, should be encouraged to help reduce vigilantism.

Another limitation in the development of partnerships is that they have focused mainly on the police. Initiatives should be extended to court and prison processes that, for example, encourage people to testify in court, participate in community corrections, parole decisions and supervision and support of offenders released on parole.

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