HOW WE GOT IT WRONG

What to do about the failure of crime prevention

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After 1994, South Africa committed itself to a vision of criminal justice that placed the prevention of crime at the centre of the strategic vision of the criminal justice system. The roots of this decision lie in the politics, organisational dynamics and intellectual climate of criminology in the mid-1990s. The model has, however, proved disappointing. Worse, by distracting government from the challenge of building a criminal justice system that identifies and incarcerates more violent criminals, it may actually have helped to foster the high levels of crime from which South Africa suffers.

Since 1994, oceans of ink have dried on forests of pulped trees in the quest to understand South Africa's crime problem and develop workable solutions to it. Government departments have produced White Paper after Green, strategies beyond number, commitments to act and press statements by turn self-congratulatory and self-exculpatory; academics and NGO researchers have produced surveys and evaluations on everything from criminality in schools to conditions in South Africa's prisons; journalists and editors have emblazoned our papers and streetlights with stories of horror and pleas for action and accountability.

As a country, we are not short of things to say about crime.

And yet, despite the all-consuming attention crime has enjoyed, the deterioration in the crime situation over the past few years suggests that we may be in one of two positions. The first is that we know far too little about the causes of our crime problem and what we must do to stop it. The second is that we do know the answers to these questions but we can do nothing with that knowledge because either the problems are too intractable or the solutions are beyond our means and ability.

These are not happy alternatives, but of the two, it would be distinctly preferable to have failed to understand our crime problem adequately and/or to have failed to prescribe the correct remedies. This would put us in a far better position than if we understood the problem but found that we could not solve it.

It would require a brave (or dishonest) analyst to assert definitively which of these conditions best describes our situation. Nevertheless, perhaps because the alternative may be too grim to contemplate, it is the view of this writer that, though our social and criminal problems are serious, and that some may actually be intractable, it is our analysis about crime that has been deficient and that changes to policy and strategy could make a significant difference to South African

crime rates. Most importantly, it is entirely possible to implement these changes. Adopting them, however, would require the serious rethinking of some of the most closely held convictions of many in the crime-and-policing policy community.

Where we went wrong
Perhaps the simplest way to demonstrate the way in which South African criminal justice policy has erred, is to reflect that between 1994 and 2007, the number of convicts in South Africa's prisons rose by 26%, from 90 000 to 113 000. Over the same period, however, the number of convicts in Britain's prisons rose by nearly 85%, from 35 800 to 66 000. In the United States, the rate of increase has been about 55%, from 1.5 million to about 2.3 million. In the previous decade-and-a-half, however, the number of convicts serving time in the US had tripled.

Naturally, the fact that one or other country doubles the number of prisoners over a certain period does not mean that that is the most appropriate example to follow. However, given that levels of violent crime in South Africa are much higher than Britain's, it is striking that the number of British convicts has grown three-and-a-half times faster over the past decade than their South African counterparts.

There are many reasons why South Africa has not locked away as many violent criminals as we might have. The criminal justice system inherited from apartheid lacked legitimacy and, therefore, struggled to obtain the kind of co-operation from victims and witnesses that is needed to prosecute cases successfully in court. We also inherited a justice system unduly wedded to the use of reverse-onus provisions and confessions to secure convictions. When the legal principles on which these were built were deemed unconstitutional in the mid-1990s, the transition to a system that bases its cases on a different logic proved more difficult than anticipated. The criminal justice system, like other institutions in our society, has also had to endure wrenching organisational change – the amalgamation of 11 police agencies, for instance – combined with a fraught process of transformation.

Jointly and separately, these factors would have made the rapid improvement of conviction rates difficult to achieve, but their impact was worsened by a crucial intellectual and conceptual misstep made by all the most important policy-makers, academics and NGOs in the mid-1990s – one that has been repeated ever since. This was the commitment we all displayed to seeing the role of the criminal justice system, first and foremost, as being about preventing crime, with the idea of 'crime prevention' understood in a very direct and literal way.

This article will put forward three main reasons why the criminal justice policy-making community has been in thrall of the idea of crime prevention. The first of these is what might be called the politics or, even, the aesthetics of crime prevention.

As a culture, much of our common sense dictates that we think of prevention more favourably than its alternative. Prevention, we are taught, is better than cure. A stitch in time, so it is said, saves nine.

There is nothing wrong with these sentiments, and it would be wrong to say that our criminal justice policies have been built on the insubstantial foundations that these bits of folk wisdom reflect. Still, there is something of this sentiment in the background of many discussions about crime and justice. This is also, however, a sentiment that has been immeasurably strengthened by the basic tenor of South Africa's politics across all political parties. This holds – correctly and indisputably – that we have a history in which immense damage was done to individuals, families and communities, and locates the causes of our crime problem in the socio-economic and institutional debris bequeathed us by Apartheid. If we are to get on top of crime, therefore, we must deal with the myriad of social problems that cause it; to do otherwise would be to add insult to socio-economic injury.

If the basic politics underpinning South Africa's understanding of itself is one reason we embraced the idea of crime prevention, another related reason is that, for obvious reasons, policing and law enforcement did not have much legitimacy in the immediate aftermath of Apartheid. These

institutions, after all, had been purpose built for protecting the Apartheid regime, and they had used all their legal – and some not-so-legal – powers to that end. Little wonder, then, that one of the abiding responses to many in the policy-making community was that South Africa had seen its fill of hard policing, and that something more palatable was in order.

In relation to policing, then, our most basic sentiments in the mid-1990s were that finding an alternative to aggressive arrest-and-imprisonment policing was a national priority. A second, more important reason why our criminal justice system embraced the idea of crime prevention, however, was that this is precisely what the leadership of the SAPS wanted.

For policing, one of the most profound institutional consequences of the death of Apartheid was that the security branch of the South African Police, long the most powerful branch of the police, went the same way as constitutional disenfranchisement and statutory racism. As this institution was dismantled, people who came out of the uniformed branches quickly filled the vacuum created at the top of the police organisation. The uniformed branch, as opposed to the detective services, understands policing as being primarily directed at the prevention of crime. It is, in the language of the SAPS, the seat of 'proactive' as opposed to 'reactive' policing.

It is no coincidence, of course, that a government whose instincts tended towards crime prevention would select a leadership core for the new SAPS from the ranks of that part of policing with most affinity for the programme. What is important, however, is that a shared commitment developed between government policy-makers and police leadership to devoting the resources of the SAPS to preventing crime, and it is this that set us on our present path.

These two reasons – the instincts and politics of government and the organisational dynamics of changing police leadership – were only part of the story, however. By far the most important reason why both government and senior police officers

embraced a vision of policing which was focused on preventing crime, was that everyone who was reading the international literature at the time would have believed that this approach was the last, best hope for policing.

How we were misled by international experience
Anyone who was paying attention to the criminology journals and police science books written in the early- and mid-1990s would have been forgiven for thinking that the traditional model of policing was being written off as a failure. Dubbed, somewhat sneeringly, the 'professional model of policing', it was seen as having failed the societies in which it was most strongly entrenched. That failure was measured by the extraordinary rise in crime that countries in the developed world – most importantly, the United States – had experienced in the 1980s and early 1990s, and had led to the demand for new thinking about policing. In essence, this came in two varieties: on the one side, conservative thinkers punted what came to be called variously 'zero-tolerance policing' or 'broken windows policing'; on the other, liberal and left-leaning theorists and policy-makers staked their names to some version of 'community policing' or 'problem-solving policing' or some other variation on the theme.

To be sure, there is much that separates zero-tolerance policing and community policing, with the former imagining steely-faced centurions policing a city's streets for even the most minor infraction, and the latter focusing on what might be called the tactics of 'armed social work' – community engagement, partnership building, and the like. Different as these two approaches are, however, they also share an important commonality: a conviction that policing, done in the right way, can reduce crime directly. For both schools, crime prevention is the chief aim and object of the police. As importantly, for both, that goal is achievable.

These, then, are the reasons why we have adopted the prevention of crime as the lodestar of criminal justice in South Africa: our politics, the views of police leadership, and the conviction, prevalent among criminologists at the crucial times during the development of our new policies, that crime

prevention, understood as being different from, and, in some ways, opposed to, law enforcement, was the way of the future.

The fact is that, whether policing for crime prevention had any prospect of success elsewhere in the world, the UK and US governments were not so convinced of the likely success of the new approaches that they stopped building prisons. In South Africa, by contrast, we have allowed our criminal justice system – the institutions involved in investigating, prosecuting, adjudicating and incarcerating offenders – to stagnate and even to degrade. This has been a fundamental, if still rectifiable, mistake.

How failing to build the criminal justice system has stimulated criminality

It is one thing to argue that we have adopted a poorly conceived macro-strategy and another to claim that any plausible alternative would have done any better. It may be, after all, that the problem is not our ability to understand the causes of crime or to implement appropriate solutions, but that our social problems are thoroughly intractable. If that is the case, then no criminal justice strategy could fundamentally affect the levels of crime in South Africa.

If it were literally true that the peculiar social, cultural, economic and historical forces operating in South African society were the cause of our high crime rate, this would certainly be a possibility. It may be, however, that this is not the case, and that the decision to focus criminal justice attention on the prevention of crime rather than on the arrest, prosecution and incarceration of offenders has itself helped to shape the way the crime wave has developed in post-liberation South Africa. In this regard, it is worth asking if the failure to incarcerate sufficiently large numbers of people involved in violent crime is itself a factor in explaining the prevalence of violent crime in South Africa – and the view taken by this researcher is that it must have done.

In this regard, consider the findings of a recently published study into the way obesity spreads through a population. Tracking the movements of

over 12 000 people over 32 years, the authors found that there were very strong, statistically highly significant correlations between one person's gaining weight and weight gains for their friends and relatives. They found that:

> [A] person's chances of becoming obese increased by 57% if he or she had a friend who became obese; … [that a]mong pairs of adult siblings, if one sibling became obese, the chance that the other would become obese increased by 40%; … [that i]f one spouse became obese, the likelihood that the other spouse would become obese increased by 37%; … [and that p]ersons of the same sex had relatively greater influence on each other than those of the opposite sex. (Christakis and Fowler 2007: 370)

Trying to explain this, the authors posit a mechanism that could tell us something important about how criminality might have spread through our population:

> To the extent that obesity is a product of voluntary choices or behaviours, the fact that people are embedded in social networks and are influenced by the evident appearance and behaviours of those around them, suggests that weight gain in one person might influence weight gain in others. Having obese social contacts might change a person's tolerance for being obese or might influence his or her adoption of specific behaviours (e.g., smoking, eating, and exercising). (Christakis and Fowler 2007: 371)

If we change the language of this quote to make it refer to the question of crime and criminality in South Africa, we might arguably learn something about how the failure to arrest and incarcerate sufficiently large numbers of people engaged in acts of violent crime might have had the effect of encouraging the criminality of others. It may be, in other words, that while our socio-economic conditions have been *pushing* people into crime, the sheer prevalence of this kind of behaviour, and the sheer number of people involved, has had the

equally damaging effect of *pulling* many other people into it, too. If that is so, the focus on crime prevention, because it has failed and because it has distracted us from the challenge of building a criminal justice system that can identify (swiftly), try (fairly) and incarcerate (humanely) much larger numbers of people who commit violent crimes, is an important reason why crime rates in South Africa are so high.

Drawing attention away from the difficult and, potentially, morally fraught business of catching and incarcerating violent offenders has been manifest in a number of ways. By far the most prominent of these has been the failure to build sufficient prison accommodation – which has grown at a pace no faster than the growth rate of the South African population as a whole – and the failure to invest adequately in the building of the Detective Service, prosecution service and magistracy. Indeed, in the case of the Detective Service, some organisational policies adopted in the police since the mid-1990s may have been purpose-built to undermine the status and morale of detectives, making it far harder to recruit and retain talented personnel. Together with the failure to address weaknesses in the courts and the lack of prison accommodation, this means that our conviction rates are simply too low, and the flow of convicts into our prisons is too slow.

By most standards, of course, South Africa is a society with a very large prisoner population. Certainly, this is so in per capita terms, where our imprisonment numbers are among the highest on the planet. This, many have suggested, implies that the increased use of prison is not the answer we need. Perhaps this is true. Perhaps sending large numbers of people to prison will not make all that much difference to crime rates, or will do so only very slowly. These are real possibilities. By the same token, however, the fact is that, measured in relation to our murder rates, South Africa's prisoner population is not large at all. In fact, one compilation of the relevant statistics – always bearing in mind the enormous difficulties of making cross-country comparisons – implies that our prisoner-per-murder figure is among the lowest in the world. If that is true, then we may not have used prison anywhere near as gratuitously as some

have suggested, and may not have generated a prisoner population large enough to begin to roll back the crime wave.

Conclusion
The upshot of all this is that South Africa needs to rethink some of its basic concepts of criminal justice. It may be true that our history and our social conditions are uniquely poised to produce crime, but if criminal behaviour is in some sense contagious – that it is 'caught' by non-criminals from contact with criminals in the same way that obesity seems to spread through a population – then we need to look as closely at our ability to quarantine the infected. By all means we should continue to work on addressing the root causes of crime, but we should resist the hubristic notion that we will crack these problems quickly or easily. If we have learnt anything from the past 13 years, it should be this.

If we are to address crime seriously, we need a serious programme that will build a criminal justice system that can double the number of convicts behind bars over the next ten years, focusing particularly on violent offenders, while at the same time maintaining a commitment to the due process rights of the Constitution and our criminal law. This will not be easy, not least because building a decent and effective justice system may be the work of generations. Having said that, there are two reasons for optimism. The first is that it seems that, however moderate the success of the SAPS at solving the vast majority of crimes committed, when a high-profile outrage occurs, it is often (if not usually) able to secure arrests. This suggests that the basic infrastructure of technical skills and competencies on which an efficient and effective Detective Service could be built, exists.

The second reason for optimism is that the SAPS, as opposed to most police services in the developing world, has a degree of professionalism which might be another crucial ingredient in any attempt to build such a service. All is not as it should be, to be sure, but, when compared to the corruption and incompetence of many a developing world police force, the SAPS stands out as exceptional. This, too, makes it possible to imagine successfully building

the capacity to take sufficient numbers of violent criminals off the streets and in so doing to begin to roll back the crime wave.

References

Christakis, N and Fowler, JH 2007. 'The Spread of Obesity in a Large Social Network over 32 Years'. *New England Journal of Medicine* (357). Massachusetts: Massachusetts Medical Society. pp370-371.

Endnote

1 This piece draws on research conducted for, and arguments made in Antony Altbeker's book, *A Country at War with Itself: South Africa's crisis of crime.*