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Cite as: Albertus and Marshall
"Social Crime Prevention: Why
it Should be a Complementary
Approach for the South African
Police" 2025 (39) Spec Juris
162–184



Social Crime Prevention: Why it Should be a Complementary Approach for the South African Police

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Abstract

The consistently high crime rate in South Africa is an indication that the contemporary reactive, tough-on-crime approaches by the police are not effective in stemming the tide of crime. Other crime prevention approaches and methods, which are complementary to pure law enforcement, are thus undeniably necessary. This article contends that social crime prevention, though it is not a panacea to crime in general, should be adopted by the police as it requires that the root causes of crime be considered in the development of appropriate responses to crime. The legal bases for the police to employ such approaches are not explicit in the extant laws, but may be reasonably inferred from the Constitution, policies and some legislation. In particular, certain legislative provisions aimed at protecting vulnerable persons may arguably be better enforced by the police if they adopt appropriate social crime prevention approaches in the execution of their duties.

Keywords: social crime prevention; police; trust; vulnerable persons; root causes; crime reduction

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1 INTRODUCTION

Historically, countries have addressed crime through their criminal justice system.¹ Crime prevention, therefore, comprised “vigorous policing and a tough justice system.”² In many countries, including South Africa, this approach is still applied. The inadequacy of the approach was, however, illuminated since the 1960s when there was recognition that the “tough on crime” approach yielded limited positive results in reducing crime. This realisation contributed to the understanding that crime is a social problem derived from poor socio-economic conditions and gradually resulted in an increased focus on the “socio-economic causes of crime and the situations which present an opportunity for crime.”³ The concept of “social crime prevention” thus emerged. At this juncture, it is apt to mention that even in contemporary times, the concept is still not widely known or accepted in South Africa. As will become clearer later in this article, the failure to embrace social crime prevention optimally over the years may be a significant contributor to the consistently high crime rates. The fact that the police’s role regarding social crime prevention has varied over the years may also account to some extent for their inability to deal with crime effectively, and moreover, their failure to prevent crime.

It is important to note that “social crime prevention” is described by the social development sector as “a way of strengthening social cohesion and social fabric, by encouraging and empowering individuals, families and communities to participate in their development and decision-making.”⁴ It also involves “interventions designed to modify the risk factors among individuals or groups of individuals (as opposed to situations or places) by using psychological, sociological or community-oriented measures.” Siegelar and Ballard state that:

[S]ocial crime prevention aims to support law enforcement by influencing the macro-structured social factors contributing to crime in communities. Social crime prevention addresses the socio-economic and environmental factors that cause people to commit crime.⁵

They also explain that social crime prevention has a dual objective, namely, the “[reduction of individuals’] motivation to commit crime through social influence and institutions of socialisation and, secondly, to alter social relationships and social environment.” In short, social crime prevention may be regarded as the application of initiatives such as programmes, projects and approaches which strengthen the fabric of communities and society so that crime does not occur in the first place. Furthermore, those who would otherwise be involved in the commission of crime are instead engaged in activities which contribute positively to their own and others’ lives. Based on these descriptions and given widespread sentiments that tougher approaches to crime are needed to stem the tide of crime, some might assume that, strictly speaking, the police do not have a significant role to play in this regard. In South Africa, for instance, the police are, unfortunately, commonly regarded as enforcers of law only. In other words, their role in respect

1 Travis and Weisburd “Reorienting Crime Prevention Research and Policy from the Causes of Criminality to the Context of Crime” Paper presented at the 1996 conference on criminal justice research and evaluation.

2 Palmary “Social Crime Prevention in South Africa’s Major Cities” 2001 *CSVR* 1.

3 Palmary 2001 *CSVR* 2.

4 Ntsaluba “Public Trust in SAPS Hits 27-year Low as Police Face Deepening Legitimacy Crisis” *Grocotts Mail* (6 August 2025) Public trust in SAPS hits 27-year low as police face deepening legitimacy crisis – Grocott’s Mail (accessed 11-11-2025).

5 Siegelar and Ballard “An Evidence-Based Social Crime Prevention Approach for Community Participation in the Prevention of Violent Crime” 2023 *Administratio Publica* 4–5.

of crime is largely seen as reactive.

Furthermore, the public distrusts the police,⁶ and do not have high expectations of being kept safe by them (the police). Many do not even report crime to the police.⁷ There is less emphasis on the police's constitutional duty to prevent crime than on their reaction to crime.⁸ The possible assumption that the police do not have a significant crime prevention mandate may, however, be refuted, as crime prevention has been a priority for all South African government departments (including the police) for decades. This resulted in the introduction of a National Crime Prevention Strategy (NCPS) in 1996,⁹ which provides that:

Crime is not one thing but many things. There are many different kinds of crime, different interests which motivate criminals and hence, many different causes and solutions to this complex problem. The underlying causes of rape and child abuse are different to the root causes of white-collar crime and corruption and both differ in origin from the problem of motor vehicle hijacking.¹⁰

The White Paper on Safety and Security of 1998 (WP of 1998), and the 2016 White Paper (WP of 2016), which replaced it later, both proffer that social crime prevention is a legitimate approach to crime. The WP of 1998 provided that social crime prevention “reduce[s] the social, economic and environmental factors conducive to particular types of crime.”¹¹ This definition is similar to that of the International Centre for the Prevention of Crime, which defined social crime prevention as “anything that reduces delinquency, violence and insecurity by successfully tackling the scientifically identified causal factors [of crime].”¹²

To ensure effective social crime prevention, the role of the police must be considered. A healthy democracy requires police officers who protect and uphold the rights of their communities.¹³ Unfortunately, the shift to social crime prevention approaches has been met with resistance.¹⁴ The routine police brutality and general inefficacy attest to this. Perhaps the police's current unpreparedness in this regard may also account for such resistance. Palmary, however, opines that such resistance and a preference for “tough on crime” approaches tend to prevail in contexts where there are high levels of fear of crime among the public.¹⁵ This is indeed the case in South Africa, where crime is endemic, serious and violent. To boot, being a police officer is an onerous and dangerous responsibility. This role requires rigorous screening, training and accountability processes. As Govender and Pillay opine, “The police system in South Africa needs to undergo rapid transformation.”¹⁶ This statement rings true, as the historical practices of apartheid-era policing continue to influence current practices. Without consistent advocacy for systemic change, these harmful cycles will persist. Furthermore, many members of the public

6 Department of Social Development Integrated Social Crime Prevention Strategy (September 2011) 11.

7 Westerdale “60% of Theft and Robbery Victims Don’t Report Crimes” *The Citizen* (26 August 2025) <https://www.citizen.co.za/news/south-africa/crime/trust-police-falls-60-theft-victims-do-not-report-crimes/> (accessed 10-11-2025).

8 Section 205(3) of The Constitution of the Republic of South Africa, 1996.

9 Department of Social Development Integrated Social Crime Prevention Strategy, 8.

10 NCPS 1996, 9.

11 White Paper on Safety and Security 1998, 12.

12 International Centre for the Prevention of Crime 1997.

13 Govender and Pillay “Policing in South Africa: A Critical Evaluation” 2022 *Insight on Africa* 52.

14 Palmary 2001 *CSVR* 2.

15 Palmary 2001 *CSVR* 2.

16 Govender and Pillay 2022 *Insight on Africa* 57.

perceive the police as poorly trained, which further undermines trust in them.¹⁷

The deep levels of poverty which plague many South African communities commonly evoke sentiments that “crime pays,” and that criminals have more rights and receive better treatment than law-abiding citizens.¹⁸ In a bid to appease the public, it seems that the South African government continues to place more emphasis on the typical “tough on crime” and law enforcement approach. The appointment of more police officers has, for example, been prioritised over intensifying training in compliance with the Bill of Rights, and the use of less or non-lethal and non-violent approaches to crime prevention.¹⁹ Arguably, most police officers therefore do not have a profound awareness and understanding of social crime prevention.

More than two decades after the introduction of the NCPS, crime remains endemic in South Africa. Furthermore, the causes of crime are still substantially attributable to socio-economic conditions. Indigence, lack of economic and employment opportunities, substance abuse, dysfunctional families, as well as mental and physical health challenges are some of the factors which continue to fuel crime. This is in addition to gender inequality,²⁰ the increase in illicit firearms,²¹ and psychosocial factors that were identified in the WP of 1998.

Evidently, the police are not mandated and equipped to intercede in negating or ameliorating some of the factors which contribute to crime, but this is not to say that the police do not have any responsibility regarding social crime prevention. Social crime prevention is targeted at the underlying causes of crime, rather than the punishment of offenders.²² Though it has been stated by Palmary that the social crime prevention approach leans heavily on “sound knowledge of the causes of crime, adequate research skills for the monitoring of crime trends, and the evaluation of intervention programmes”,²³ we contend that the police have a duty, along with many other stakeholders, to contribute to social crime prevention. Most police stations are located in or close to communities affected by crime. Additionally, many officers live in the communities they serve and should thus be aware of some of the causes of crime, and they have a legal and constitutional mandate to keep the inhabitants of South Africa safe. The police can and should therefore be key agents in social crime prevention approaches.

Tentatively, it is submitted that the police can intervene to “modify the risk factors among individuals or groups of individuals,” to ensure and strengthen social cohesion and the social fabric as envisaged by a state premised on human dignity, equality and freedom.²⁴ This article thus proceeds to trace legislative obligations imposed upon the police, which arguably denote a need for the fulfilment of their role as participants in the attainment of social crime prevention. First, however, the crime landscape is sketched briefly. This is followed by an analysis of the Constitution, policies and legislation, which impose duties upon the police that may be regarded

17 *Ibid* 53.

18 Kobokana and Merrington “SA Justice System More Sympathetic to Criminals than Victims: Cele” (24 October 2025) <https://www.sabcnews.com/sabcnews/sa-justice-system-more-sympathetic-to-criminals-than-victims-cele/> (accessed 09-11-2025).

19 Palmary 2001 *CSV* 2. See also Mtembu “More Boots on the Ground: South African Police Service Deploys Over 20,000 New Officers to Combat Crime” <https://iol.co.za/news/crime-and-courts/2025-02-03-more-boots-on-the-ground-south-african-police-service-deploys-over-20000-new-officers-to-combat-crime/> (accessed 08-11-2025).

20 White Paper on Safety and Security (2016) 11.

21 *Ibid* 12.

22 Palmary 2001 *CSV* 2.

23 Palmary 2001 *CSV* 3.

24 Ntsaluba “Public Trust in SAPS Hits 27-year Low as Police Face Deepening Legitimacy Crisis” *Grocotts Mail* (6 August 2025) Public trust in SAPS hits 27-year low as police face deepening legitimacy crisis – Grocott’s Mail (accessed 11-11-2025).

as integral or akin to contributing to or attaining social crime prevention in South Africa.

2 CRIME IN SOUTH AFRICA

The police in South Africa continue to attract criticism for retaining colonial-era practices in modern times.²⁵ Many police officials remain detached from the communities under their jurisdiction. This leads to public apprehension regarding crime and the questionable efficiency of existing prevention approaches.²⁶ These challenges highlight the need for comprehensive police reform, especially concerning their role in crime prevention, their statutory obligations, and the overarching legal framework designed to address and diminish criminal activities. While the exact extent of the problem may be the subject of debate, the certainty that we live in one of the most dangerous countries in the world is undeniable.²⁷ The two major providers of crime statistics in South Africa are the South African Police and Statistics South Africa (Stats SA).²⁸ This is mentioned here as there is often a variance between the data presented by these providers. SAPS statistics are regarded as “only part of the picture” as they comprise administrative data of crime that had been reported at “police stations by victims, the public and crime reported as a result of police activity, [while] Stats SA produces crime statistics estimated from household surveys.”²⁹

Police statistics show that from January to March 2024, there were 247 more murders than during the same period in 2023.³⁰ In the first three months of 2024, contact crimes increased by 4.6 per cent, and sexual crimes increased by 4.3 per cent. Truck hijacking increased by 5.3 per cent and represents a rise of 61 per cent since 2020. While these statistics provided by the police denote a serious crime problem in South Africa, the victims of crime surveys conducted by Stats SA paint an even bleaker picture. Sexual offences against individuals have increased by 73.3 per cent in 2023–2024 compared to the previous year, and assaults increased by 12 per cent.³¹ It is also of grave concern that in 2023–2024 approximately six per cent of all families experienced a housebreaking, but only 44 per cent of them reported it³². Another two per cent of households experienced a home robbery, but only 58 per cent of these households reported the incidents. This is possibly another indication of the public’s lack of faith in the police to keep them safe. Similarly, during the same period, about 443,000 individuals were robbed on the street, but only 44 per cent reported it to the police. Furthermore, approximately 295,000 South Africans were assaulted in 2023–2024, mostly at knifepoint, but only 54 per cent of them reported it to the police.³³ The present Minister of Police, Senzo Mchunu, has stated that these figures “reflect the lived realities of our citizens — their fears, their losses, and their

25 Govender and Pillay 2022 *Insight on Africa* 41.

26 *Ibid.*

27 Staff Writer “South Africa Ranks as one of the most violent and dangerous places in the world” *BusinessTech* (29 June 2023) <https://businesstech.co.za/news/lifestyle/699927/south-africa-ranks-as-one-of-the-most-violent-and-dangerous-places-in-the-world/> (accessed 22-11-2024).

28 Statistics South Africa “People” https://www.statssa.gov.za/?page_id=737&id=5 (accessed 09-09-2024). There are also other reliable, smaller crime statistics providers that focus on statistics not provided by the major sources. A discussion of these sources is, however, beyond the scope of this article and not pertinent to providing a broad and cursory picture of the crime landscape in South Africa.

29 Saunderson-Meyer “Crime in South Africa Worse than Official Stats Suggest” *The Citizen* (7 September 2024) <https://www.citizen.co.za/news/opinion/crime-in-south-africa-worse-than-official-stats-suggest/> (accessed 09-09-2024).

30 *Ibid.*

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

hopes for a safer tomorrow.”³⁴ The statement by the Minister indicates the state’s awareness of the profound impact that crime has on many and serves perhaps as an acknowledgement that current strategies are not successful in crime reduction and prevention.

Additionally, the Independent Police Investigative Directorate (IPID),³⁵ also presents compelling evidence highlighting the magnitude of challenges within South African policing and crime prevention efforts. Statistics reveal that custodial deaths increased from 217 in 2020–2021 to 223 in 2021–2022.³⁶ Additionally, fatalities resulting from police interventions indicate a concerning rise from 353 to 410 during that same year.³⁷ Sexual assault cases involving law enforcement officers similarly escalated, with reported incidents climbing from 80 to 99 between 2020 and 2022.³⁸ The 2021/2022 IPID report further documented 3,383 assault cases, 57 corruption cases and 190 instances of torture cases.³⁹ These statistics paint a grim picture of contemporary law enforcement in South Africa and reinforce the necessity for substantial reform measures.

In the face of rampant crime and profound public distrust of the police, it may be challenging to envision how the police may play a role in social crime prevention. Though they are at the coalface of crime, the profound distrust and hostility between the police and the communities they have to serve is frequently visible.⁴⁰ For this reason, it is important to understand what social crime prevention could mean in volatile, crime-ridden community contexts where there is limited trust between the police and the public. Tentatively, it should also be considered that a police force that embraces and applies social crime prevention measures may begin to win the trust of the public. Their mandate, after all, is to work with and serve communities. Many may agree that to date, there has been minimal visible effort by the police to encourage a better rapport and trust between them and the public. This is most unfortunate, but optimistically, it does not mean that social crime prevention is to be abandoned as a futile concept, irreconcilable with the ethos and capabilities of the police in a constitutional state. It is therefore important to find and understand the legal basis for the police’s role in social crime prevention. To this end, the constitutional imperatives which align with social crime prevention are highlighted and discussed next.

3 SOCIAL CRIME PREVENTION: WHAT DOES THE CONSTITUTION PROVIDE FOR?

At the outset, it is mentioned that social crime prevention is aimed at strengthening social cohesion and the social fabric of our society. To repeat, it also involves psychological, sociological or community-oriented measures to modify the risk factors for crime. It seems unlikely that a police force, with a militaristic culture which is often criticised for still displaying a violent and oppressive approach to law enforcement as it did under the apartheid regime, could contribute to the bolstering of South Africa’s social fabric and social cohesion. Police brutality, corruption, limited appropriate skills and training, low morale, and the public’s lack of faith and respect for the police appear to counteract the South African police’s prospects of contributing meaningfully to social crime prevention. Unfortunately, these factors stand in contrast to the “psychological, sociological or community-oriented measures”, which could positively affect individuals or groups. It seems unrealistic to expect the police to fulfil any duties regarding

34 Saunderson-Meyer *The Citizen* 2024.

35 Independent Police Investigative Directorate Annual Report 2021/2022.

36 *Ibid* 37.

37 *Ibid*.

38 *Ibid*.

39 *Ibid* 38.

40 Saunderson-Meyer *The Citizen* 2024.

social crime prevention. Notwithstanding this sentiment, the fact that such a duty exists and that its fulfilment may lead to crime reduction must be considered. Closer scrutiny is necessary to at least clarify the legal bases for such a duty, and how it may be understood and perhaps fulfilled.

The Constitution does not mention “social crime prevention.” The concept was introduced in South Africa after the recognition by various state departments that the then-new democratic state that aspired to be characterised by the fundamental values of dignity, equality and freedom, requires more than a purely reactive law enforcement approach to crime.⁴¹ This may have been with the benefit of hindsight. However, though the Constitution does not explicitly confer a duty on the police regarding social crime prevention *per se*, it is worth looking at some of the constitutional provisions relevant to policing in South Africa, and to determine whether they may afford a basis for such a duty.

It is relevant to consider that in its preamble, the Constitution provides that its adoption is to,

heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights. [It is also to] lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law.

Conceivably, the police, like all other state organs, bear some responsibility towards the attainment of the aforementioned state. A purely reactive law enforcement approach is unlikely to suffice in the type of society envisaged in the Constitution. It may also be considered that the Constitution establishes a single police force,⁴² that must function in the national, provincial and, where appropriate, local spheres of government.⁴³ The Constitution thus envisages a police agency that works closely with the public. Consequently, they should serve communities, families and individuals directly as the Constitution presents no apparent constraints in this regard. To serve the public in a milieu characterised by respect for dignity, equality, and freedom requires much more than the typical forceful policing approach synonymous with apartheid.

Although the powers and functions of the police must be established by national legislation, to enable the police to discharge their responsibilities effectively,⁴⁴ the Constitution provides the objects of the police. It stipulates that the police must “prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law.”⁴⁵ Although the Constitution does not prescribe the approaches, measures or methods which the police may employ in the execution of their duties, the police must always respect the fundamental values and rights guaranteed in the Bill of Rights. Respect for life, dignity, and freedom must be in the fulfilment of the police’s duties, and a high level of justification is necessary whenever such rights are breached. The work of the police officer in a state based on constitutional democracy is therefore not easy and is further complicated in the context of serious, endemic crime. Arguably, these major responsibilities require a profound understanding of social crime prevention from the police, and moreover, an ability to contribute to it. This is bolstered by the fact that the police’s purely reactive, often violent responses to crime have to date not yielded the results desired in our constitutional dispensation, as demonstrated by the statistics discussed earlier in this article.

Notably, crime prevention is mentioned before combating and investigating crime in section 205 of the Constitution. This does not mean that prevention is more important than combatting

41 Saunderson-Meyer *The Citizen* 2024.

42 Section 199 of the Constitution.

43 Section 205 of the Constitution.

44 Section 205(2) of the Constitution.

45 Section 205(3) of the Constitution.

and investigating crime, but the drafters of the Constitution undoubtedly attributed the same level of importance to crime prevention as they did to the combating and investigation of crime to protect inhabitants. Furthermore, the measures and methods employed by the police must accord with the values of the Constitution and the Bill of Rights. For the police to prevent crime, they may therefore adopt some “psychological, sociological or community-oriented” methods or approaches in line with social crime prevention.

There are many cases in which the courts have pronounced on the police’s duty to prevent crime in terms of section 205(3) of the Constitution. In *Impangele Logistics (Pty) Ltd v All Truck Drivers’ Foundation (ATDF); Mbali Coal Proprietary Limited v Buthelezi Ntuthuko and 63 Others*⁴⁶, for example, the Court’s judgment commenced with a reference to the police’s obligations in terms of section 205(3). The judgment dealt with two cases, namely, *Impangele Logistics (PTY) Ltd and Another v All Drivers Foundation ATDF and Others* and *Mbali (Pty) Ltd v Ntuthuko Buthelezi and Others*. The central question was whether the police complied with their obligation under section 205(3) of the Constitution. The applicants in both cases sought relief that would, in short, restrain the respective respondents from unlawfully interfering, and damaging the operation of their business and property.⁴⁷

In casu, there were allegations that the police failed to uphold section 205(3) and would only intervene if ordered to do so by a court of law. The Court noted that it often dealt with cases where such allegations were made by parties and that there were even cases where the police failed to act, when persons clearly acted unlawfully. Consequently, the Court held that the SAPS has a proactive duty to prevent foreseeable crime and does not need a court order to prevent crime. Whilst being mindful of the separation of powers, the Court ordered that the judgment be brought to the attention of the provincial police commissioner, who was to decide whether to investigate the failure of the police officials to prevent and intervene in crime in the specific cases. While these cases did not deal with crime prevention only, and in fact focussed more on instances where crime had occurred, and the police refused to intervene, the value of the judgment lies also in the fact that it alludes to the need for the police to use their initiative to prevent crime from happening in the first place. It is this type of mindset i.e to actively seek opportunities to prevent crime, which the police must have to enhance social crime prevention approaches.

In earlier cases, such as *Carmichele v Minister of Safety and Security (Centre for Applied Legal Studies Intervening)*⁴⁸ and *K v Minister of Safety and Security*,⁴⁹ the police’s constitutional duty to prevent crime was emphasised particularly in respect of vulnerable persons such as women and children. In *AK v Minister of Police*,⁵⁰ the Court held that:

46 *Impangele Logistics (Pty) Ltd and Another v All Truck Drivers’ Foundation (ATDF) and Others; Mbali Coal Proprietary Limited v Ntuthuko and Others* (3647/2019; 3564/2019) [2019] ZAMP MHC 11; 2020 (1) SACR 536 (ML) (25 October 2019) .

47 Paragraph 3.

48 2001 4 SA 938 (CC).

49 2005 9 BCLR 835 (CC).

50 [2022] ZACC 14.

The state has a duty to protect women against all forms of gender-based violence that impair their enjoyment of fundamental rights and freedoms. It has to take reasonable and appropriate measures to prevent the violation of those rights. The South African Police Service (SAPS) is one of the primary state agencies responsible for the protection of the public in general, in particular women and children, against the invasion of their fundamental rights by perpetrators of violent crimes.⁵¹

In *K*, the Court held further that “trust in the police is the greater good to be gained from the police doing their duty.” The Court reasoned that:

Our Constitution mandates members of the police to protect members of the community and to prevent crime. It is an important mandate which should quite legitimately and reasonably result in the trust of the police by members of the community. Where such trust is established, the achievement of the tasks of the police will be facilitated. In determining whether the Minister is liable in these circumstances, courts must take account of the importance of the constitutional role entrusted to the police and the importance of nurturing the confidence and trust of the community in the police in order to ensure that their role is successfully performed.⁵²

Based on section 205(3), the abovementioned and many other cases, the police’s duty to prevent crime is undeniable. The importance of trust in the police is also apparent. The separation of powers, however, prohibits the courts from ordering how the police should prevent crime in general. The courts’ consistent emphasis on protection for vulnerable persons and the importance of trust between the police and communities do, however, arguably allude to the fact that purely reactive, forceful measures are not sufficient for the police to fulfil their mandate. Though none of the judgments specifically mention or propose social crime prevention measures as an appropriate means to be employed by the police, such measures may be inferred as appropriate, and they are probably in line with what is envisaged for purposes of building trust between communities and the police, which in turn may lead to crime prevention.

The Constitution thus provides a basis for the contention that the police’s duties may include undertaking social crime prevention efforts. It may also be asserted that this duty is affirmed by policies and national legislation. Below, some of the policies and legislation are analysed to demonstrate that the police indeed have responsibilities which would be better fulfilled through social crime prevention approaches.

4 THE POLICE’S OBLIGATION REGARDING SOCIAL CRIME PREVENTION: AN ANALYSIS OF POLICY AND LAW

The police’s crime prevention efforts in former “white” areas were negligible and non-existent in “black” areas.⁵³ Chipkin argues that historically, South African police avoided resolving disputes in black communities or addressing their security concerns.⁵⁴ This lack of policing prompted the rise of “informal community-based policing mechanisms” and police were driven from numerous townships, a process that strengthened during the 1980s.⁵⁵ Nevertheless, this situation created its own challenges, as the police’s absence in black communities enabled

51 Paragraph 3.

52 Paragraph 52.

53 Palmary 2001 *CSVR* 4.

54 New South Institute *The Function of the Police: Crime, Social Emergencies and Disorder* (2023) 7.

55 *Ibid.*

criminal gangs to flourish.⁵⁶

Further, under apartheid, 74 per cent of police stations were based in white areas, and the police were mainly present in black areas to control opposition to the apartheid system.⁵⁷ The extensive use of force by the police and its para-military approach to policing under apartheid resulted in substantial challenges for policing post-1994. Govender and Pillay emphasise that since 1990, South African policing has attracted widespread criticism for the use of excessive force and corruption.⁵⁸ While the use of force remains necessary in law enforcement, it must be judiciously applied and proportionate to the situation at hand.⁵⁹ Nevertheless, numerous communities perceive police responses as either delayed or counterproductive. This further highlights the already fragile trust in law enforcement.

Trust in the police force has shown a fluctuating and, thereafter, a downturn trend over recent decades. The data reveals that between 1998 and 2010, police trust levels remained between 39 per cent and 42 per cent, while the period from 2016 to 2020 showed a decline to between 31 per cent and 35 per cent.⁶⁰ The Western Cape region demonstrates this fluctuating trust pattern clearly, with figures varying significantly: 37 per cent in 2004, 50 per cent in 2006, 34 per cent in 2008, 42 per cent in 2010, 32 per cent in 2014, 33 per cent in 2016, 31 per cent in 2018, 43 per cent in 2020, and dropping to 22 per cent in 2021, averaging 36 per cent overall.⁶¹

Integrated work with other government departments and organisations was also rare, and the collection and collation of information on crime was limited. The police thus encountered major challenges in setting their crime prevention agenda.⁶² Further, the “focus on political control meant that the understanding and practice of crime prevention in South Africa was limited, and social crime prevention initiatives were absent.”⁶³ Despite this, the White Paper on Safety and Security of 1998 identified a “two-tiered” approach to crime prevention which integrated effective policing and social crime prevention. Furthermore, the local government was conferred the power to enforce by-laws and social crime prevention with several partners, including the police and the Community Policing Forums (CPFs).⁶⁴ Based on the aforementioned, the police had an undeniable role to play in social crime prevention. The details on what this role entailed then are not obvious, given that the crime rate has remained consistently high and there is growing distrust and hostility between the South African public and the police.⁶⁵ It is thus necessary to consider next how the White Paper on Safety and Security envisaged the police’s role in social crime prevention in the past and how the current White Paper of 2016 envisages it.

4.1 The White Paper on Safety and Security of 1998 (WP of 1998)

The WP of 1998 provided that there are many ways in which social crime prevention can be attained. These are: designing out crime; education; promoting social cohesion; supporting youth,

56 *Ibid.*

57 Palmary 2001 *CSVR* 4.

58 Govender and Pillay 2022 *Insight on Africa* 41.

59 *Ibid* 42.

60 Roberts and Gordon “Feeling Blue: Changing Patterns of Trust in the Police in South Africa” <https://hsrc.ac.za/press-releases/dces/feeling-blue-changing-patterns-of-trust-in-the-police-in-south-africa/> (accessed 23-10-2024).

61 Roberts and Gordon HSRC.

62 Palmary 2001 *CSVR* 4.

63 Palmary 2001 *CSVR* 4.

64 Palmary 2001 *CSVR* 5.

65 Palmary 2001 *CSVR* 5. See also Tait “The Deepening Crisis of Distrust in South African Policing” (1 September 2024) *Daily Maverick* <https://www.dailymaverick.co.za/article/2024-09-01-the-deepening-crisis-of-trust-in-south-african-policing/> (accessed 20-12-2024).

families and groups at risk; breaking cycles of violence; promoting individual responsibility; and socio-economic interventions to undercut causes of crime.⁶⁶ The WP of 1998 was, however, reviewed in 2010. It emerged that two policy interventions were necessary, namely, a White Paper which focuses on the policing environment and one which focuses on an integrated and development approach to crime and violence prevention, which also recognises that safety extends far beyond policing.⁶⁷ There was also recognition that reactive policing approaches to crime are only partially effective in crime prevention.⁶⁸

While the above-mentioned findings cannot be refuted, they do not mean that the police cannot or should not play a proactive role in crime prevention. Social crime prevention activities are arguably also not beyond the scope of what the police may engage in. The effective or better enforcement of some legislation (discussed later) appears to give rise to a need for police officers to desist from their often-impetuous reactions to crime. At times, they must assume a proactive role that would previously have been regarded as that of community or social workers. Put plainly, the protection of certain vulnerable persons against crime may be achieved through a police presence, vigilance and preventative measures. Protections in laws on domestic violence, children, persons with disabilities and elderly care, to name a few, would arguably be better enforced if the police had a constant and known presence in the daily lives of these vulnerable persons. Police officers who are trained in social crime prevention measures and who routinely engage with vulnerable persons can undoubtedly contribute to social crime prevention. The WP of 1998 was, however, replaced by the White Paper on Safety and Security 2016, which is discussed next.

4 2 The White Paper on Safety and Security of 2016 (WP of 2016)

The WP of 2016 is aimed at, *inter alia*, providing substance and direction to achieving the National Development Plan's 2030 objective of building safer communities. The WP of 2016 provides that it will "facilitate, where necessary, new legislative and institutional arrangements necessary for the operationalisation of its objectives, including: [The] clarification of roles and responsibilities of individual government departments...".⁶⁹ Though one may expect that the police's role regarding social crime prevention would be described, the WP of 2016 provides that:

[s]hort-term measures, such as those undertaken by the South African Police Services (SAPS) and the broader criminal justice system, need to be augmented with long-term prevention approaches that generate positive social change, in order to reduce levels of crime and violence.⁷⁰

It is indeed true that long-term prevention approaches are needed, yet it seems (based on the above) that the police are not viewed as potential role players or initiators in social crime prevention initiatives. From the WP of 2016, it appears that the mandate of the police has been pitched not far beyond its historical, reactive enforcement approach. This is a far cry from what communities need and the potential that the police have to address such needs. Moreover, the protection envisaged in the Constitution and some legislation (discussed later), particularly in respect of vulnerable persons, is substantially attenuated as a result of the position espoused in the WP of 2016. This becomes clearer later in this article. At this juncture, it may be noted that the WP of 2016, though it does not provide clarity on the role of the police in social crime

66 Palmary 2001 *CSVR* 5.

67 White Paper on Safety and Security (2016) 9–10.

68 *Ibid* 8.

69 *Ibid*.

70 *Ibid* 13.

prevention, refers to the Community Police Forums (CPFs) as facilitators of,

community participation including reciprocal responsibilities in respect of crime fighting programmes; ensuring police accountability to the community; joint identification and co-ownership of policing programmes and identifying policing projects with the police.⁷¹

CPFs are established in terms of the South African Police Services Act 68 of 1995.⁷² They usually comprise community members who serve as a bridge between the broader community and the police. They are tasked to foster good working relationships between the police and the communities they serve.⁷³ Presumably, CPFs have knowledge and awareness of a community's safety needs and should therefore be in a position to assist the police in identifying the needs and the relevant measures for social crime prevention. The WP of 2016 indicates that the Civilian Secretariat for Police Service will provide a coordinating role in support of the implementation of the White Paper and will facilitate engagements with civil society and government on community safety.⁷⁴ This, too, may suggest the police's role in social crime prevention. However, the WP on Safety and Security of 2016 provides that the White Paper on Policing of 2016 serves to complement it by articulating a clear role for the police in crime prevention.⁷⁵ One may therefore expect that the role of the police in social crime prevention, though not expressly envisioned by the WP on Safety and Security of 2016, may be sketched in the White Paper on Policing. This is discussed next.

4 3 The White Paper on Policing of 2016

The term "social crime prevention" is not mentioned in the White Paper on Policing of 2016 (WP on Policing), but this certainly does not mean that the police are exempt from contributing to the safety of communities in this manner. There are ample provisions in the WP from which it may be reasonably inferred that the police ought to adopt at least some social crime prevention measures or approaches to aptly fulfil their duties. Such provisions are highlighted later in this article. Simultaneously, it must be acknowledged that it is not clear why express reference to the police's duty to engage and apply social crime prevention measures is omitted from the WP on Policing. The WP on Policing affirms that "[the] police service must play a central role in safeguarding human rights and freedom and contribute to creating an environment where communities are and feel safe."⁷⁶ A central role in keeping communities safe cannot only involve a purely reactive law enforcement approach. Arguably, such a singular approach is likely to paint a picture of a police force that can only be associated and engaged with crime, violence and conflict as opposed to actively ensuring a harmonious, safe environment. Put plainly, it may result in the police being viewed as officials who can only be approached in relation to crime that has already occurred or is likely to occur. This would reinforce their image as a brutal, self-serving force and preclude them from contributing to long-term measures or initiatives and cultivating ingrained values based on the guaranteed human rights. This is untenable in a constitutional democracy where the police have an unmistakable duty to uphold the supreme

71 *Ibid* 16.

72 Section 19.

73 Section 18 of the Police Services Act 68 of 1995.

74 WP (2016) 50.

75 *Ibid* 40.

76 WP on Policing of 2016 1.

Constitution founded on dignity, equality and freedom.

The WP on Policing envisages the police as,

[f]undamentally, a professional and innovative police service [with] the ability . . . to respond to complex crimes such as sexual abuse and domestic violence, while remaining steadfast in its commitment to executing its mandate within a rights-based and victim-centred context.⁷⁷

While this denotes a necessary reactive role of the police in instances of serious, often gender-based crime, it would be absurd to contend that it means that the police have no role to play in social crime prevention measures to avoid such crimes from being committed in communities. Initiatives and programmes aimed at understanding the causes of such crimes and creating preventative measures arguably require the input of the police, who are at the coalface of crime. The WP on Policing does not provide a clear articulation of the police's duty in this regard. However, as mentioned earlier, there are indications in the WP on Policing that the police have a mandate regarding social crime prevention. This is discussed below.

It is indeed true that the police alone cannot deal with crime. Chapter 12 of the National Development Plan (NDP), which deals with community safety, requires integrated approaches to crime and violence reduction. Consequently, the police must

continue to play an active role in supporting the initiatives of other key role-players aimed at undercutting the root causes of crime and violence. All efforts by the police must therefore form part of an integrated criminal justice system.⁷⁸

The police's social crime prevention duty is undeniably based on the above. The fact that all efforts by the police must be integrated into the broader criminal justice system must not restrict police work. Instead, it may serve to bolster the police's efforts to contribute to social crime prevention initiatives. This is further affirmed in the WP on Policing itself, where it provides as follows:

[T]he White Paper continues this emphasis on the need for integrated cross-cutting policing, recognising that crime is a convergence of many factors including historical, social and economic. Essentially, the development of targeted strategies must take cognisance of the interrelated, causal relationship between the range of factors that impact on safety and security broadly. The South African Police Service must, as a result, continue to work collaboratively and in support of the initiatives of others within the criminal justice, intergovernmental sectors and civil society in the prevention of crime and the provision of community safety.⁷⁹

It may appear that, based on the WP on Policing, the police ought not to work independently in so far as social crime prevention initiatives are concerned. This is an unreasonable limitation. The police should not be barred from initiating and applying social crime prevention measures independently. The CPF is still accorded the role of partner with the police to assist in effecting change in their communities. Together with CPFs, it may be possible and effective for the police to implement social crime prevention measures and approaches. While it is positive for the police to work collaboratively and in support of the initiatives of others, the police who probably know the needs of communities, should be allowed to work independently too. The police are, according to the WP on Policing, "a central social institution charged with meeting clear and urgent social needs; and key amongst these is ensuring that all people live in safety, free from crime and violence."⁸⁰ Initiating long-term social crime prevention measures supported by the CPFs, with or without the collaboration of others, should be possible for the police based on

77 *Ibid.*

78 WP on Policing 2016 9.

79 *Ibid* 13.

80 *Ibid.*

the Constitution, the WP on Safety and Security of 2016, and the WP on Policing. Furthermore, there are legislative imperatives (discussed later) that arguably would be better fulfilled when the police engage in social crime prevention measures.

In addition to the WP on Policing, the Integrated Crime and Violence Prevention Strategy 2022 (ICVPS) was introduced to set “out a framework/mechanism for a whole of government and whole of society approach to crime and violence prevention in the country.”⁸¹ The ICVPS is founded on six pillars, i.e.: (a) An effective criminal justice system; (b) early intervention; (c) victim support; (d) effective and integrated service delivery for safety, security and violence; (e) safety through environmental design; and (f) active public and community participation. Imaginably, these pillars would support social crime prevention in policing. It is expressed in the ICVPS that these pillars align with the pillars in the 1996 NCPS, which *inter alia* included social crime prevention.⁸² Furthermore, the ICVPS adopted an integrated approach, which is dependent on vertical and horizontal coordination and collaboration of the three spheres of government and rests on the six pillars.⁸³

In terms of pillar 1: an effective criminal justice system, one of the deliverables is an efficient, responsive and professional policing service. Key actions for the attainment of this deliverable are the implementation of the recommendations of the 2016 White Paper on Policing by professionalising the police service by enhancing the qualities in police officers, improving policing skills and training, and modernising policing approaches and enhancing specialist and communication capabilities. Additionally, the ICVPS foresees that there would be alignment of the implementation of the White Paper on Policing to the ICVPS, National Strategic Plan on Gender Based Violence and Femicide (NSP GBVF) and other policies addressing crime and violence against women, children and vulnerable groups. The ICVPS is indeed comprehensive, and it involves the whole government in the achievement of its deliverables. Services for victims and better responses to crime, which appear to be broadly the main outputs of the strategy, cannot be critiqued. However, the prevention of crime and the police’s involvement in social crime prevention is not made clear. This is unfortunate and may be a contributor to the consistently high levels of crime and continued and growing distrust in the police. An explicitly focussed plan is needed to establish trust between the police and communities. Rigid plans for collaboration may be the cause for various departments working in silos. Overlaps in functions which are genuinely aimed at gaining community trust and preventing crime must be permitted. For example, as may be gleaned from later discussions in this article, the police and social workers ought to be permitted to work together more readily in communities, yet in the absence of one, the other should not be precluded from doing what is necessary to nurture the trust of the community and to lay the foundations for preventing crime. CPFs ought to have representatives from various government departments too, as this may enhance collaboration.

5 THE ENFORCEMENT OF LAW: HOW MAY A SOCIAL CRIME PREVENTION MANDATE ASSIST?

The WP on Safety and Security of 2016 provides that it is important to understand “vulnerability” in the context of crime prevention. The purpose of determining vulnerability is to “inform the nature and focus of interventions required to reduce crime and violence.” The WP lists various categories of persons who are vulnerable to crime. These include persons with disabilities, the elderly, women and children, and members of the lesbian, gay, bisexual, trans-gender, intersex, queer/questioning, asexual (LGBTIQA+) community, foreign nationals, sex workers, the

81 Integrated Crime and Violence Prevention Strategy 2022, 9.

82 See fn 3 of the ICVPS.

83 ICVPS 23.

homeless and young men.⁸⁴ This does not constitute a closed list. The WP on Safety and Security of 2016 explains to some extent why these categories of persons are regarded as vulnerable to crime. In short, part of the reason why they are vulnerable is due to their isolation and crimes against them are often hidden and “preclude victims from accessing adequate, or any, health or criminal justice service.”⁸⁵

To protect some of these vulnerable groups against crime, various pieces of legislation have been passed. The legislation has not always yielded satisfactory protection to these groups. It has often been said that we have good laws but poor implementation. Perhaps there is merit in this, as crimes against vulnerable persons are still rife. The purpose of this article is, however, not to measure the implementation of laws. It is to analyse some of the laws which are intended to protect vulnerable persons and to determine whether they give rise to obligations which could be fulfilled or significantly addressed through social crime prevention measures by the police. A discussion of all the legislation which may require the aforementioned measures for its implementation or improved implementation is beyond the scope of this article. Below, the Domestic Violence Act 116 of 1998, the Older Persons Act 13 of 2006, and the Children’s Act 38 of 2005 will be analysed. These Acts were selected based on the historic prevalence of crime against these groups.

5 1 The Domestic Violence Act 116 of 1998

The specified purpose of the Domestic Violence Act 116 of 1998 (DVA) is “to provide for the issuing of protection orders with regard to domestic violence; and for matters connected therewith.”⁸⁶ The preamble of the DVA recognises the prevalence of domestic violence and that victims are often the most vulnerable members of society. Importantly, the preamble mentions that the “current remedies” have not been effective in reducing domestic violence. This raises the question of which new measures the DVA should introduce which are likely to reduce domestic violence. In short, it is difficult to provide an accurate answer. The definition of domestic violence has been significantly extended, and there is a more inclusive and comprehensive definition of what constitutes a domestic relationship for the purposes of the DVA. These are just two examples of the amendments to the DVA which ought to yield better protection to victims. However, the focus of this article is on the police and how a social crime prevention mandate may contribute to better protection against crime. A close perusal of the DVA reveals that the police do not have a direct social crime prevention mandate. However, there are examples of provisions which denote that such a mandate would have either prevented or attenuated the impact of crime against victims. Two examples are provided next.

Section 2 of the DVA confers a duty on the police to assist and inform complainants of their rights. It reads as follows:

84 WP 2016.

85 *Ibid* 56.

86 Long Title of Domestic Violence Act 116 of 1998.

Any member of the South African Police Service must, at the scene of an incident of domestic violence or as soon thereafter as is reasonably possible, or when the incident of domestic violence is reported—

- (a) render such assistance to the complainant as may be required in the circumstances, including assisting or making arrangements for the complainant to find a suitable shelter and to obtain medical treatment;
- (b) if it is reasonably possible to do so, hand a notice containing information as prescribed to the complainant in the official language of the complainant's choice; and
- (c) if it is reasonably possible to do so, explain to the complainant the content of such notice in the prescribed manner, including the remedies at their disposal in terms of this Act and the right to lodge a criminal complaint, if applicable.

This provision is purely reactive. This is not to say that it should not be reactive, as in many instances this is required to support victims. However, the provision could have been more progressive had it also taken a proactive approach in so far as educating and creating awareness of rights and services are concerned. Many victims do not report domestic violence precisely because they would lose their accommodation or financial support, as they are often dependent on their abusers for such assistance.⁸⁷ Police officers, as mentioned earlier in this article, live and work in communities. Through their engagements with community members, leaders and organisations, they may share information regarding the rights and assistance available to victims of domestic violence. It is, in fact, possible that this already occurs informally and to a limited extent. If the legislative duty to assist and inform complainants of their rights was, however, couched as a formalised social crime prevention measure, it may have impacted positively on more victims and potential victims. Often, domestic violence occurs over extended periods of time, and incidents are reported only once serious damage and/or injuries (or worse) are inflicted. A social crime prevention approach would therefore assist in reducing such incidents, as victims may feel more confident about reporting their abusers if they are aware of their rights and services that will be offered to them. Potential perpetrators may also be careful not to violate the rights of persons whom they know are aware of their rights and the resources that are available to ensure their protection against violations.

Section 2B of the DVA is also a provision to which a social crime prevention approach by the police may be appropriate and perhaps more effective in reducing domestic violence. The section deals with the obligation to report domestic violence and to provide information to the police. It reads,

In circumstances, other than those contemplated in section 2A(2), an adult person who knows, or believes or suspects on reasonable grounds, that an act of domestic violence has been committed against a child, a person with a disability or an older person, must report such knowledge, belief or suspicion as soon as possible, to a social worker or the South African Police Service.

While the protective nature of this provision cannot be disputed, its implementation may be illusory in a context where citizens have little trust in the police. This is unless a social crime prevention approach is applied to the provision. The police must introduce measures to build their relationships with communities for section 2B to achieve its intended purpose. A direct collaboration between community representatives and the police aimed at creating awareness of citizens' and the police's respective duties in terms of section 2B, may assist in building mutual trust and respect. Most importantly, it will assist in achieving the objectives of the provision, i.e. to prevent and deal with cases of domestic violence against vulnerable members

⁸⁷ *Ibid.*

of society. While reports can also be made to social workers, police officers are more present in communities, due to the nature of their work. A social crime prevention approach by the police to enforce section 2B could assist not only in bringing attention to real cases of domestic abuse but could potentially also prevent and combat it in many instances.

The enforcement of sections 2 and 2B of the DVA may be enhanced if the police were conferred an explicit social crime prevention mandate in respect of these provisions. To inform victims of domestic violence of their rights and services only after their rights have been violated is necessary, but not ideal. The reactive approach required by the legislation is also not realistic for reducing and preventing domestic violence. For persons to understand and fulfil their duty to report abuse and suspected abuse of very vulnerable persons, there must be consistent and obligatory dialogue and interaction between communities and the police. Regular workshops and awareness-creating events with CPFs, other government departments, community-based organisations, and community members may greatly contribute to information-sharing and enhancing individuals' understanding of their own and their police's role regarding the prevention of domestic violence against vulnerable persons. Social crime prevention approaches are key to such engagements.

5 2 The Older Persons Act 13 of 2006

The Older Persons Act 13 of 2006 (OPA) was passed to “deal effectively with the plight of older persons by establishing a framework aimed at the empowerment and protection of older persons and at the promotion and maintenance of their status, rights, well-being, safety and security.”⁸⁸ Section 2 sets out that the OPA is aimed at combatting the abuse of older people. A cursory reading of the OPA indicates that the police play a central role in keeping vulnerable older people safe from abuse and crime. The police's involvement in the protection of older people appears, however, to be limited to largely reactive duties. In other words, the police are only engaged once the abuse of or crime against an older person has already occurred. Section 25 of the OPA, for example, obligates a person who suspects that an older person needs care⁸⁹ and protection to report such suspicion to a social worker or the Director-General⁹⁰ who must, in turn, investigate the matter.⁹¹ If the investigation substantiates the report that the older person is indeed in need of care and protection, then the social worker or Director-General may, in terms of section 25(4)(b), *inter alia*, report the matter to the police and request them to act in accordance with section 27 of the OPA. Section 27 is discussed later in this section.

The above-mentioned provisions indicate that the police are not the first point of contact when there is a suspicion or opinion that an older person needs care and/or protection. The efficacy of this provision in achieving its intended purpose is doubtful when it is considered that access to social workers in South Africa is often limited.⁹² Access to the police is arguably easier than access to a social worker or the Director-General. Furthermore, although the OPA has been in existence for years, the duty of persons to report their suspicions is not well-known in communities. There is thus a need to raise awareness in this regard. Additionally, people would arguably report their concerns to the police first, and not to a social worker. This could be because they do not know the process provided for in the OPA, and also because, as already mentioned, social workers are often not easily accessible. The police are more present in communities than

88 Long title of Older Persons Act 13 of 2006.

89 Section 1 of the Older Persons Act defines “care” as physical, psychological, social or material assistance to an older person, and includes services aimed at promoting the quality of life and general well-being of an older person.

90 Sections 25(1) and (2) of the Older Persons Act 13 of 2006.

91 Section 25(3) of the Older Persons Act 13 of 2006.

92 Section 25(3) of the Older Persons Act 13 of 2006.

social workers. The effect of OPA is that the police would have to explain the provisions of OPA to persons who intend to report their suspicions and refer them to a social worker.

Moreover, the process prescribed in the OPA of first reporting to a social worker or the Director-General, followed by their investigation of the matter and then potentially reporting the matter to the police, seems protracted. It may have been more prudent for the sake of combatting and preventing neglect and abuse of older persons, to educate the police in identifying older persons who may need care and protection and to formalise a closer working relationship between the police and social workers from the moment that an older person in need of care is identified. The police's mandate cannot solely involve reactive approaches to crime. A more integrated approach between the police and social workers involving social crime prevention measures would perhaps provide better protection to older persons. Earlier identification of older persons in need is of essence to their protection. To this end, it may be important for the police to work closely with the CPF too. CPF members who are trained along with the police to identify persons in need of care and to create awareness within communities regarding their obligations to report may contribute to the prevention of abuse and/or other crimes against the elderly.

As mentioned earlier, section 25 of the OPA provides that if an investigation by a social worker or the Director General substantiates the claim that an older person needs care and protection, they may refer the matter to the police and request them to act in terms of section 27. Section 27 will apply if there is a need to remove a person who is causing harm to an older person from the place where the older person resides. It provides that:

[a] police official to whom a report contemplated in section 25(4)(6) has been made or who is satisfied that it will be in the best interests of the older person if the alleged offender is removed from the home or place where the older person resides, must issue a written notice.

The written notice will require the alleged offender to appear at a magistrates' court to provide reasons why they should not be permanently prohibited from entering the home or residence of the older person.⁹³

Section 27 thus confers substantial powers to the police to protect elderly persons. The police are not limited to reacting to a request by a social worker or the Director General. If a police officer is satisfied that it will be in the best interests of the older person if the alleged offender is removed from the place where the older person resides, he must issue a written notice in this regard. This is undoubtedly a protective measure against serious harm and indirectly a conferral of the power to be proactive in protecting the well-being of older persons. Given the power of the police arising from section 27(1), section 27(7) stipulates that if a police officer misuses their authority, such an action will constitute a ground for disciplinary action against the police officer. It is therefore important that police officers are trained to effectively identify and investigate cases where older persons need protection. Police officials should also understand what constitutes abuse of an older person, as the OPA provides that suspected abuse must be directly reported to the police or the Director General in terms of section 26(1). The OPA criminalises such conduct, and the police have a duty to investigate such crimes or act in terms of section 27 to remove the alleged offender from the residence of the older person.

A social crime prevention approach, which involves communities, the police and social workers, would assist in the better enforcement of the provisions of the OPA. Although the OPA does not confer a social crime prevention mandate upon the police, such an approach can assist in educating the police and the public on how to fulfil their duties. The police have to know how to identify an older person in need of care and protection or who is a victim of abuse. This can be achieved by working closely with social workers and communities. The police must also

93 Section 27(1)(c).

know how to respond to notifications or requests to remove a person from the residence of an older person and to use their discretion. They risk being subjected to disciplinary action if the exercise of their power is deemed as misuse. The police should know the processes which must be followed subsequent to making an identification of an older person in need of care and protection. To do this, they must have the support of the community. Community members may be supportive of the police if they have had prior engagements which educated them about the duties and objectives of the police and the public in terms of the OPA.

5.3 The Children's Act 38 of 2005

Two of the stated key objectives in the Children's Act 38 of 2005 are to give effect to certain constitutional rights of children and to set out principles relating to the care and protection of children. A detailed discussion of all the provisions of the Act, which may be better enforced if the police had been conferred a social crime prevention mandate, is beyond the scope of this article. The discussion is thus limited to sections 150 and 152, which deal with children in need of care and protection, and the removal of a child to temporary safe care.

Section 150(1) describes when a child is to be regarded as a "child in need of care and protection." It lists the following instances in which a child is to be regarded as in need of care and protection:

- (a) has been abandoned or orphaned and is without any visible means of support;
- (b) displays behaviour which cannot be controlled by the parent or care-giver;
- (c) lives or works on the streets or begs for a living;
- (d) is addicted to a dependence-producing substance and is without any support to obtain treatment for such dependency;
- (e) has been exploited or lives in circumstances that expose the child to exploitation;
- (f) lives in or is exposed to circumstances which may seriously harm that child's physical, mental or social well-being;
- (g) may be at risk if returned to the custody of the parent, guardian or care-giver of the child as there is reason to believe that he or she will live in or be exposed to circumstances which may seriously harm the physical, mental or social well-being of the child;
- (h) is in a state of physical or mental neglect; or
- (i) is being maltreated, abused, deliberately neglected or degraded by a parent, a care-giver, a person who has parental responsibilities and rights or a family.

Many communities do not have easy access to social workers.⁹⁴ This is especially true in indigent communities. A child in need of care and protection may thus either be undetected, or it could be the norm in some communities, and the assistance of a social worker may not be considered necessary. The police, however, have a presence in and perhaps better access to most communities. Through CPFs representatives, for example, they may be entrusted with information regarding children and their well-being. Children in need of care and support may thus be identified by the police and CPF members who might find it easier to report such cases to

94 *BloemExpress* "SA in Need of Social Workers" (27 July 2022) <https://bloem-express.co.za/sa-in-need-of-social-workers-20220726/#:~:text=At%20least%2014%2066%20more%20social%20workers%20are,adequate%20tools%20of%20the%20trade%20within%20the%20DSD>. (accessed 28-11-2024). It was reported that the country needs 55,000 social workers to meet the demand for appropriate basic social welfare services in South Africa.

social workers. A formalised, integrated strategy based on the ethos of social crime prevention implemented by the police, community representatives, and social workers may yield better outcomes for children. Initiatives by the police, such as regular visits to schools, health clinics and places frequented by children, will allow for trust-building between the police and children. This will also assist the police in better identifying children in need of care and protection.

Section 150 (2) provides that a child found in the following circumstances may be a child in need of care and protection and must be referred for investigation by a designated social worker: (a) A child who is a victim of child labour; and (b) A child in a child-headed household. In some communities, people may not be aware of what it means to be a child in need of care and support. The phenomena of child labour and child-headed households, for example, might be normalised. Community members might also not be aware of the law. Access to social services and social workers may be limited too. However, due to the pervasiveness of crime in indigent communities, the police may be more present and would thus be the suitable reporters.

Section 152 of the Children's Act deals with the removal of a child to a temporary safe care facility without a court order. A designated social worker or a police officer may remove a child and place them in temporary safe care without a court order,

. . . if there are reasonable grounds for believing-

(a) that the child-

(i) is in need of care and protection; and

(ii) needs immediate emergency protection;

(b) that the delay in obtaining a court order for the removal of the child and placing the child in temporary safe care may jeopardise the child's safety and well-being; and

(c) that the removal of the child from his or her home environment is the best way to secure that child's safety and well-being.⁹⁵

Section 152 recognises that police officials can play an important role in social crime prevention. They do not have to know that a child needs care and protection. They must believe on reasonable grounds that that is the case. They must exercise their discretion in deciding whether the circumstances of a child reasonably indicate the need for their drastic intervention. While this is a positive mechanism to protect children from danger, the provision could have major rights implications for both children and their caregivers in the event that a police officer does not exercise their discretion reasonably. Foreseeably, this might be a provision which some untrained police officers may either choose not to enforce for fear of making mistakes, or some may be overzealous and perhaps even weaponise their powers against innocent parents and caregivers. The effective enforcement of section 152 should thus be supported through a social crime prevention approach. Roleplayers such as social workers, community representatives, and legal experts ought to develop a strategy to ensure that the police exercise their powers lawfully.

Section 152(3) offers some safeguards after a child has been removed by a police official, but they do not protect children and/or guardians or caregivers against the unlawful or malicious removal of a child in the first place. At best, the provision requires that once a child has been removed and placed in temporary safe care the police official must: (a) Without delay but within 24 hours inform the parent, guardian or care-giver of the child of his/her removal, if that person can readily be traced; (b) Refer the matter to a designated social worker for investigation

95 Section 152(1) of the Children's Act 38 of 2005.

contemplated; and (c) Without delay but within 24 hours notify the provincial department of social development of the removal of the child and of the place where the child has been placed; and (d) Not later than the next court day inform the relevant clerk of the children's court of the removal of the child.

Nothing in the abovementioned provisions appears to assist police officers in reducing the risk of mistakenly making the initial decision to remove a child. It would not be surprising if many police officials fear the incorrect enforcement of the law and would rather avoid the provision. The provision would arguably be better enforced if police officers were involved in long-term social crime prevention initiatives to develop the knowledge and skills to give effect to this provision.

6 RECOMMENDATIONS

While social crime prevention is not a panacea for endemic crime in South Africa, it ought to be embraced as a complementary crime prevention approach by the police. Some may argue that the consistently high crime rate already places a significant burden on police resources and that the obligation to engage in social crime prevention initiatives may thus be impossible to fulfil. Contrary to this, it must be considered that crime prevention is a constitutional obligation of the police. Further, reactive measures to crime are not only costly to the state, but they often mean that fundamental rights have been violated as a result of the commission of crime. When efforts and resources are invested in preventing crime in the first place, rights are protected, and the fabric of society is strengthened. Social crime prevention is also an investment which could have long-term positive effects. When individuals are positively influenced through programmes and projects, albeit not resource-intensive, they may be likely to influence others. Social crime prevention strategies could have a multiplier and more long-term positive effect on safety. In addition to the aforementioned, some recommendations specific to policing are made below.

6.1 Intelligence-led Policing to Fight Crime in South Africa

Buthelezi argues that adopting intelligence-led policing in South Africa promotes a proactive approach to law enforcement, addressing both organised and broader policing challenges.⁹⁶ This strategy, which has proven effective in other nations, helps allocate resources efficiently through threat analysis, identifying risks such as crime hotspots, social harm, and criminal networks. It allows law enforcement to anticipate crime and respond proactively, which aligns well with social crime prevention methods.⁹⁷

Moreover, analysing and assessing the level of crime and risk can reveal patterns and trends, creating predictability, which is useful for deterring and preventing crime. This allows law enforcement to anticipate criminal activities in certain criminal networks and areas and prevent future occurrences. It is submitted that intelligence-led policing can be a highly effective approach to social crime prevention through improved predictability.

6.2 Training in Social Crime Prevention

Training police officers in social crime prevention would enhance their understanding of crime and help them recognise warning signs while understanding the root causes of criminal

96 Buthelezi "Incorporation of Crime Intelligence-led Policing in South Africa Police Operation: is South African Police Getting it Right" 2024 *International Journal of Research in Business and Social Science* 367.

97 Kriegler "What Does Evidence-Based Policing Offer South Africa?" https://issafrica.org/iss-today/what-does-evidence-based-policing-offer-south-africa?utm_source=chatgpt.com (accessed 03-01-2024); Buthelezi 2024 *International Journal of Research in Business and Social Science* 367.

behaviour. This enhanced knowledge would empower officers to better serve communities.

These skills and management techniques would provide officers with practical methods to reduce and prevent criminal activities. This approach could strengthen public confidence in the police. Such developments would likely encourage citizens to rely more on police services. Police officers who understand their mandate in terms of the legislation discussed in the article, for example, would arguably also realise that a positive rapport with the communities they serve is crucial for crime prevention. Social crime prevention approaches may thus include training in effective communication skills, emotional intelligence, and building formal and informal networks with community organisations and structures.

6 3 Community Engagement

Community engagement initiatives enable residents to voice their concerns to the police and could enhance crime prevention when community members feel secure enough to identify troublesome areas or individuals. This approach will encourage joint problem resolution. Increased police presence could reduce criminal activity and create opportunities for officers to guide local youth, potentially breaking recurring patterns of unlawful behaviour.

7 CONCLUSION

In the current climate of crime in South Africa, it may be naive to completely exempt the police from a social crime prevention mandate. They have a constitutional duty to keep inhabitants safe. The police cannot be expected to wait for crime to occur before they intervene. The Constitution does not limit when the police may reasonably act to ensure safety and prevent crime. On this basis, it may be argued that whenever the police become aware of factors which threaten safety, they have a legal duty to act. The typical law enforcement approaches may not be effective in many instances, and as a result, it is opportune for police officers to be trained in social crime prevention measures. This is likely to build much-needed trust between the public and the police.

The Constitution, policies and legislation impose duties upon the police that may be better executed if social crime prevention measures are applied. To serve the public in accordance with the prescriptions of the Constitution requires much more than the typical forceful policing approach synonymous with apartheid. Although the challenges of policing in a crime-ridden society are many and serious, a profound understanding of social crime prevention and an ability to contribute to it may serve the public better. It must be borne in mind that the Constitution ascribes equal importance to crime prevention as it does to the combatting and reacting to crime. Arguably, psychological, sociological or community-oriented methods or approaches in line with social crime prevention adopted by the police, may be far less threatening to the rights in the Bill of Rights than the current law enforcement methods and approaches.

Unfortunately, the role of the police in social crime prevention is not clearly envisioned by the WP on Safety and Security of 2016. Similarly, the WP on Policing does not express the police's role in social crime prevention. Nor does the ICVPS do so with sufficient specificity. However, based on some of the duties conferred upon the police, it may be reasonably inferred that the police ought to adopt at least some social crime prevention measures or approaches to aptly fulfil their duties. To repeat, initiatives and programmes aimed at understanding the causes of crimes and creating preventative measures require the input of the police, who are at the forefront of crime in communities and families. The WP on Policing thus holds that the police must continue to play an active role in supporting the initiatives of other key role-players aimed at undercutting the root causes of crime and violence. All efforts by the police must therefore form part of an integrated criminal justice system. This underscores their duty regarding social

crime prevention. At the same time, the police should not be barred from initiating and applying social crime prevention measures independently when it is necessary. Sometimes the police should be allowed, in collaboration with the CPF, to create, initiate and implement social crime prevention measures and approaches without the bureaucracy of working with other departments. Circumstances in communities or family settings, for example, may require such rapid action at times. This may particularly be true with regard to the protection of vulnerable persons.

Legislation such as the DVA, OPA and the Children's Act, for example, confer duties on the police which may be better fulfilled if they assume social crime prevention approaches and measures. This is not to say that collaboration with other state departments, non-governmental entities and even individuals should be discounted. They should be embraced as collaboration is integral to establishing a society based on democratic values, social justice and fundamental human rights. It is also essential to lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law.