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CIVILIAN SECRETARIAT FOR POLICE SERVICE (CSPS) FINDINGS ON COMPLIANCE BY THE SOUTH AFRICAN POLICE SERVICE (SAPS) TO LEGISLATIVE PROVISIONS RELATED TO GENDER-BASED VIOLENCE AND FEMICIDE

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1. INTRODUCTION

The Civilian Secretariat for Police Service (CSPS) has an oversight mandate to assess the level of compliance by the South African Police Service (SAPS) to policies and legislation. Amongst these, is compliance to the provisions of the Domestic Violence Act (DVA), 1998 (No. 116 of 1998).

The CSPS recently published its findings on a census at all police stations (1,143 stations) to collect baseline information on SAPS performance in relation to the DVA implementation in an effort to improve the effectiveness of the response to Gender-based Violence and Femicide (GBVF). The census made startling findings, including that only 21 police stations (from 1,143 police stations) were fully compliant with the provisions and only 66% of police stations had Victim Friendly Rooms (VFRs) that are functional and resourced.

This paper is in preparation of a scheduled meeting of the Portfolio Committee on Police on 26 August 2020. The Committee invited that CSPS to share its census findings and responses to issues related to GBVF.

2. GENDER-BASED VIOLENCE AND FEMICIDE (GBVF)

On 17 June 2020, President Ramaphosa addressed South Africa on the easing of lockdown restrictions. During his address, he spoke about GBVF, stating:

It is with the heaviest of hearts that I stand before the women and girls of South Africa this evening to talk about another pandemic that is raging in our country - the killing of women and children by the men of our country. As a man, as a husband and as a father, I am appalled at what is no less than a war being waged against the women and children of our country.

The President further stated that South Africa had among the highest levels of intimate partner violence in the world, and that as much as 51% of South African women have experienced violence at the hands



of someone with whom they are in a relationship. During the address, the President praised the SAPS for their excellent work in arresting almost all of the alleged perpetrators.

The President urged the SAPS to act swiftly to track down whoever was involved in these murders and ensure there is justice for the murdered women and children. The President further urged communities to work with the police and report any information they may have related to GBVF.

As part of Government's response to the scourge of GBVF, the Department of Justice drafted three bills aimed at curbing violence against women and children. These are:

- The Criminal and Related Matters Bill¹ to, among others, introduce stricter bail and sentencing provisions;
- The Domestic Violence Amendment Bill² which seeks to address the gaps and anomalies which have manifested themselves since the Domestic Violence Act came into operation in 1999; and
- The Criminal Law (Sexual Offences and Related Matters) Amendment Bill, 2020 [B16-2020]³ that seeks to extend the protection afforded to GBV victims. The Amendment Bill further seeks to introduce a new offence of sexual intimidation and to extend the ambit of the offence of incest.

There are various, specialised, victim-support services and one-stop centres (apart from the SAPS):

- Thuthuzela Care Centres: These centres are mainly based at health facilities and aim to reduce secondary victimisation, improve conviction rates and reduce the cycle time for conclusion of cases.
- Khuseleka One-Stop Centres: These centres provide services for female and child victims of violence, such as trauma counselling and psychosocial support, health care, police services, legal assistance and shelter services. The centres are open 24 hours a day.

3. MINISTERIAL SIX-POINT PLAN

The Ministerial Six-Point Plan to address GBVF includes the following –

1. The SAPS should treat all victims with respect, dignity and such victims must be interviewed by trained police officials in a victim sensitive manner.
2. The SAPS should assist victims at the Victim Friendly Room (VFR) or an alternative room where the officer will take the statement in private at the Police Station or other locations providing victim support services.
3. Victims will be referred/taken for medical examination by a healthcare professional to obtain medical evidence and complete a medical report including seeing to the health of the victim;
4. The investigation should be conducted by the Family, Violence, Child Protection and Sexual Offences Investigation Unit (FCS) or a detective with relevant training;
5. The families and victims of sexual offences, femicide and infanticide should all be referred to victim support services that are available within the precinct for legal, medical, social and psychological help; and
6. Victims should be proactively given feedback on the progress of their cases on a continuous basis.

¹ Not yet tabled and referred to the Portfolio Committee on Justice and Correctional Services.

² Not yet tabled and referred to the Portfolio Committee on Justice and Correctional Services.

³ Tabled and referred to the Portfolio Committee on Justice and Correctional Services.



4. SEXUAL OFFENCES AND DOMESTIC VIOLENCE

4.1. Annual Crime Statistics: 2019/20

In 2019/20, total sexual offences increased by 1.7% compared to the previous financial year. In 2019/20, 53 293 sexual offenses were reported in South Africa. Rape and sexual assault increased by 1.7 per cent and 4.2 percent, respectively. Together rape and sexual assault account for 93 per cent of all sexual offences.

The SAPS provided statistics for crimes against women and children for 2019/20, but the figures included unfounded cases. When cases are investigated and the collected evidence suggests that a crime did not actually occur, such cases are closed as unfounded.

According to the SAPS, the international best practices and norms when it comes to disposal of cases as unfounded are technically excluded from the crime figures. The charges are verified in terms of National Instruction 13/2017 to establish the authenticity and accuracy of the manner of disposal. The verification is necessary in order to ensure the integrity of statistics and to deter the improper disposal of reported cases in the organisation.

It is unclear why the SAPS presented unverified statistics for crimes against women and children.

As murder is the most reliable indicator of violent crime, only this category will be used for crimes against women and children in this paper. In 2019/20, 2 695 women were murdered, which is a decrease of 2.7% compared to the previous financial year. A total of 943 children were murdered, which is a decrease of 7%. However, not all murders of women can be counted as femicide, as the SAPS does not provide the breakdown of perpetrators. However, in a breakdown of causative factors for murder, the SAPS stated that 1 482 murders were domestic related.

Similarly, domestic violence as a causative factor in contact crime reveals that it accounts for-

- 21 344 Common assault cases
- 14 907 Assault GBH cases
- 923 Attempted murder cases
- 1 482 Murder cases

A ten-year trend analysis of sexual offences reflects a steady decrease from 2010/11 to 2016/17, where after it increased over the past three financial years (2017/18 to 2019/20). In 2019/20, 53 293 sexual offences were recorded in South Africa, of which 80% were rapes (42 289 rapes). Together rape and sexual assault account for 93.9% of total sexual offences.

Sexual assault increased from 7 437 counts in 2018/19 to 7 749 counts in 2019/20, which is an increase of 4.2%. Between 2010/11 and 2014/15, sexual offences showed a general downward trend, which increased sharply in 2015/16 and continued to rise. Attempted sexual offences and contact sexual offences decreased by 3.3% and 6% respectively.

In 2019/20 the Inanda police station recorded the highest number of sexual offences (351 cases), followed by Umlazi (335) and Delft (291 cases).



Table 3: Top five police stations contributing to sexual offences in 2019/20

Ranking	Police station	Number of Sexual offences	Increase/Decrease in 2019/20
1.	Inanda (KZN)	351	-8.8 per cent
2.	Umlazi (KZN)	335	11.3 per cent
3.	Delft (WC)	291	4.7 per cent
4.	Mthatha (EC)	281	18.6 per cent
5.	Plessislaer(KZN)	273	33.2 per cent

Source: SAPS (2020)

4.2. Quarterly crime statistics: 2020/21 First Quarter

Sexual offences decreased with 39.7% in the first quarter of 2020/21 compared to that of the previous financial year. With this category, rape decreased the most with 40.4%, followed by a decrease of 40.3% in attempted sexual offences and contact sexual offences that decreased with 36.2%.

During the first quarter of 2020/21, the SAPS reported selected domestic violence-related crimes by provincial breakdown and sex. The breakdown by sex provides an interesting and holistic view of the victims of domestic violence. The most prevalent cases affecting both females and males relate to common assault and malicious damage to property.

Table 1: Selected domestic violence-related crimes by provincial breakdown and sex

OFFENSE	EC	F S	GP	KZN	LP	MP	NW	NC	WC	FEMALE	MALE	RSA
Murder	18	12	13	23	5	3	14	8	16	65	47	112
Rape	53	32	70	45	14	12	21	12	63	312	10	322
Attempted murder	21	22	44	36	9	10	16	11	20	122	67	189
Assault GBH	377	257	1 001	515	257	175	196	104	482	2 413	951	3 364
Common assault	530	745	2 835	893	333	290	311	122	1 459	6 214	1 304	7 518
Common robbery	9	7	15	12	3	1	5	4	12	53	15	68
Robbery aggravating	0	0	6	4	1	3	0	0	6	15	5	20
Malicious damage to property	249	225	764	259	128	102	135	43	581	1 607	879	2 486
Burglary residential	11	12	26	17	3	6	3	2	41	73	48	121
All theft not mentioned elsewhere	61	49	198	87	22	23	34	10	252	488	248	736

Source: SAPS (2020)

The SAPS did not provide statistics for crimes against women and children. The 2019/20 crime statistics were criticised because the figures for crimes against women and children included unfounded cases, and are thus unverified statistics.



4.3. SAPS Interventions

The SAPS 2020/21 Annual Performance Plan (APP) stated they will prioritise the police stations in the country with the highest reported incidence of violent crime, which includes GBVF-related crime and hotspot areas, for focused intervention.⁴ The Medium Term Strategic Framework (MTSF) highlighted the prevalence of GBVF and was elevated by the development of the GBVF National Strategic Plan. The Justice Crime Prevention and Security (JCPS) Cluster's *Integrated Sexual Offences and Gender-based Violence Strategy* will support these structures.

In 2020/21, the SAPS implemented a complaints performance indicator to finalise 80% of GBVF-related service complaints within 30 working days. The SAPS announced a special GBVF complaints telephone number in February 2020. The National Commissioner of SAPS said, "the purpose is to ensure a continued and sustained professional service and consequence management for poor performance by any of our policemen and women."⁵

The SAPS will implement numerous initiatives to encourage the victims of GBVF to report crime at local police stations. The hope is that an increase in the reported incidence of these crimes may demonstrate improved levels of trust in the SAPS.⁶

Table 1: SAPS 2020/21 Performance targets on GBVF

Outcomes and suboutcomes	Outputs	Output indicator	Targets 2020/21
Collaborative and consultative approach to policing: Responsive policing of GBVF	Reduced levels of crime and GBVF, through strengthened community partnerships	Percentage of functional police stations rendering a victim-friendly service to victims of crime, including GBVF	100% of police stations (1 149)
	Reduce violence against women (MTSF Output)	Percentage reduction in the number of contact crimes against women (18 years and above)	Decrease to 168 517 (7.6%)
	Reduce violence against children (MTSF Output)	Percentage reduction in the number of contact crimes against children (below 18 years)	Decrease to 42 113 (7.5%)
A professional and capable SAPS: Ensure an effective and adequate resourced policing capability, in response to the demand	Improved capabilities of SAPS members	Percentage of learners assessed and declared competent in prioritised areas	97% of 7 326 learners on crimes committed against women and children.

Source: SAPS 2020/21 Annual Performance Plan

⁴ SAPS 2020-2025 Strategic Plan.

⁵ Matshediso, M (February 2020). <https://www.vukuzenzele.gov.za/gbvf-complaints-line-opened-0>

⁶ SAPS 2020/21 Annual Performance Plan



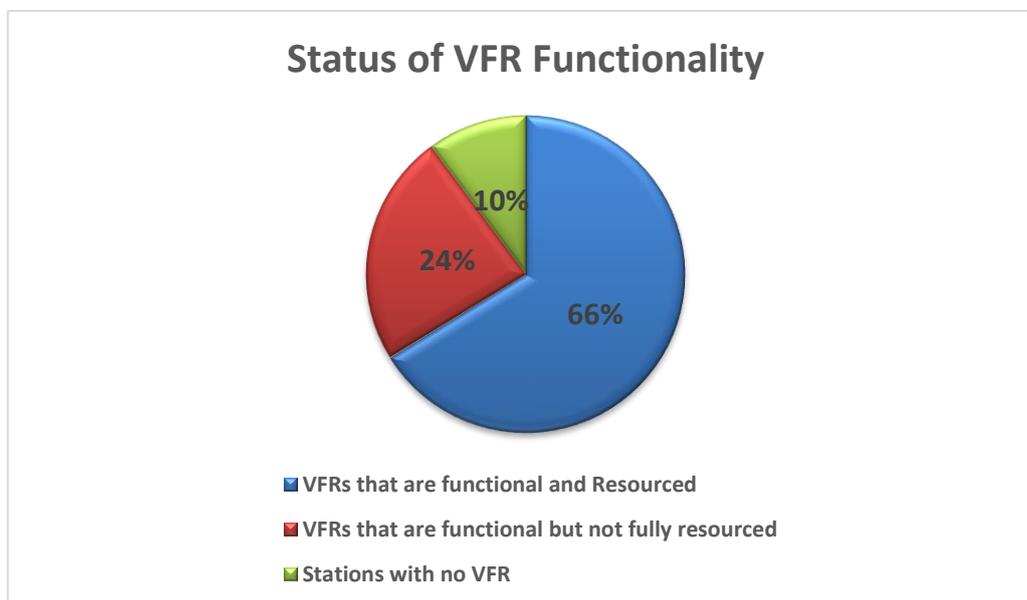
In 2020/21, the SAPS included a performance indicator to measure the utilisation of forensic investigative leads comprehensively, which includes GBVF-related cases. Additionally, the SAPS included a target to enhance processing of forensic evidence case exhibits (entries) that will focus on GBVF-related case exhibits. Targets have been included in the SAPS Annual Operational Plan (AOP) to ensure that the data underlying the performance indicator has been properly tested and is valid. Thereafter, the target will be elevated to the SAPSs APP in 2021/22.

5. VICTIM FRIENDLY ROOMS (VFRS)

The SAPS 2018/19 Annual Report stated that as at 31 March 2019, there were 1, 070 Victim-Friendly Rooms (VFRs) at police stations, satellite police stations, contact points, airports, train coaches and at Family Violence, Child Protection and Sexual Offences (FCS) Units, compared to 1, 049 VFRs, in 2017/2018. According to the SAPS, the **effective rendering** of victim-friendly services to all victims of crime is continuously monitored, by ensuring that VFRs are available and that they are not utilised for other purposes, other than statement taking for victims of crime.

According to the CSPA, the 2012 National Instruction on Victim Empowerment (2 of 2012) indicates that a functional and resourced VFR was open and available for use 24 hours and had resources. Based thereon, the CSPA found that, of the police stations visited -

- 66% had VFRs that are functional and resourced;
- 24% had VFRs that were functional but not fully resourced.
- 10% did not have VFRs or in stations where there was a room, they were not functional as they were used as additional offices due to lack of office space in those police stations.



Source: CSPA (2020)

The findings of the CSPA regarding the functionality of VFRs are contradicting the information provided by the SAPS in their 2018/19 Annual Report.



6. FAMILY VIOLENCE, CHILD PROTECTION AND SEXUAL OFFENCES (FCS) UNITS

According to the CSPA, the SAPS has 183⁷ Family Violence, Child Protection and Sexual Offence (FCS) Units. As part of their census, data collected from 36 FCS units (4 units per province) showed significant challenges. The CSPA found that there were shortages of members in a number of units. Another area with serious shortages was the Forensic Social Workers (FSW) who play a vital role in the assessment of children and people with mental disabilities. The insufficiency of FSW contributed to delays in finalisation of cases, which resulted in the provisional withdrawal of cases at court.

The CSPA also found that there was a serious shortage of buccal swabs – which contributes to no linking of suspects to crimes and the withdrawal of cases at court.

In terms of resourcing, the CSPA found the following:

- Sharing of offices by up to five members was a common occurrence. Coupled with this was a lack of private interviewing space in these offices, which result in members using their vehicles to interview victims.
- An area of concern was the evident disparity in allocation of resources. All urban (CBD) based units were better resourced than rural/township-based units; this is the case even when the number of cases handled and police stations serviced are less than those serviced by rural/township-based units.

Other key findings included:

- A lack of debriefing services for SAPS members. This increases chances of exposure to developing Post Traumatic Stress Disorder
- A lack of refresher courses. Some members indicated that they have not received any refresher training in more than 10 years. According to the CSPA, this is concerning considering the developments and changes in crime patterns and crime fighting strategies.

In his Budget Vote speech on 24 July 2020, the Minister of Police stated that during the 2020/21 financial year, emphasis will be placed on FCS units and GBV, with an additional R15 million to be put towards the direct resourcing of these units in terms of goods and services, vehicle procurements as well as other equipment. FCS units continues to secure harsh sentences and multiple life imprisonments for GBV related cases. He further stated that 312 constables who completed their specialised training would be placed at FCS units across the country.

In 2018, concerns were raised that the SAPS had a shortage of evidence collection kits for sexual offences (rape kits). The supply contract expired in 2017 due to alleged corruption between the SAPS Supply Chain Management and the provider. Since then, the SAPS had advertised several bids, but applicants did not meet the requirements of all 16 different types of evidence collection kits. SAPS awarded the current contract to Acino Forensics on 16 August 2019 valued at R497.67 million. The company was the only bidder to meet all the requirements.⁸

The SAPS has denied a shortage of rape kits and stated that they kept the kits at National level and supplied to Provinces on request. The SAPS Head Office introduced a contingency plan to allow

⁷ On 25 July 2020, the Minister of Police stated that the SAPS has 185 FCS Units.

⁸ Response by Minister of Police on Parliamentary question by Hon Whitfield dated 17 December 2019.



provinces to procure evidence collection kits on a quotation basis. Since the awarding of the bid in 2019, a distribution plan ensured an increase in provincial stock levels.

7. KEY ISSUES FOR CONSIDERATION BY PARLIAMENT

The Portfolio Committee on Police could focus on the following aspects during the upcoming engagement with the CSPA. Many questions that emanate from the CSPA presentation are aimed at the SAPS, thus this section aims at targeting the oversight role of the CSPA.

- 1) The Department should indicate what they regard as the root causes of non-compliance to the provisions of the DVA. From the time when the CSPA took over the monitoring role in 2012, levels of non-compliance have been high. Does the Department think that the provisions are an administrative burden on the SAPSs resources? Alternatively, is it an institutionalised attitude that domestic violence is a private and not a policing matter?
- 2) Has the National Instructions for FCS, which is set to enable the effective investigation of cases, been finalised? Although the CSPA is not responsible for the drafting of National Instructions, the Committee could ask whether the Department provided any input to ensure that it is aligned to policy directives.
- 3) Can the Department indicate what the level of secondary victimisation is in the SAPS and indicate what can mitigate secondary victimisation? Did the Department conduct any research studies on secondary victimisation?
- 4) The presentation does not mention the 2017 *Policy on Reducing Barriers to Reporting on Sexual Offences and Domestic Violence*. The policy aims to reduce inherent barriers that exist within the SAPS and the criminal justice system. The Department should highlight the key aspects of the policy and the status of implementation.
- 5) The National Instruction of the DVA was developed in 1999 and could be outdated. Should the SAPS revise this instruction or does it reflect the complexities of GBVF 20 years later?
- 6) There is anecdotal evidence that protection orders are not delivered by the SAPS. Has the Department considered this as part of their census? If so, what were the findings?
- 7) The discrepancy between the reported performance by the SAPS on VFRs and the findings by the CSPA illustrate the need to move away from outcome indicators and targets when measuring performance. An output performance indicator that merely measures the number of VFRs does not measure the quality of service that should be provided to communities.
- 8) The lack of buccal swaps at police stations are of serious concern. The Department should indicate whether they had any engagements with SAPS on this issue.
- 9) Are there research studies that show that victims of GBV/domestic violence are more comfortable with reporting sexual violence to a female officer? The Minister of Police recently stated that more women will be trained to work in FCS Units, but stated “this does not imply



that GBV is a gender issue”.⁹ The Department should assist the SAPS in preventing that GBV becomes an increasingly gendered issue.

- 10) The finding that rural police stations are under-resourced by not having female officers available is worrying. In light of the question above, is a female officer essential to reporting GBV? All SAPS members should be able to assist victims of GBV in a respectful manner.
- 11) Is the Draft Integrated Crime and Violence Prevention Strategy (ICVPS) aligned to the requirements set out in the National Strategic Plan on GBV?

⁹ Minister of Police, 24 July 2020. *Budget Vote 28, 24 and 21 Speech.*