

CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT 32 OF 2007

Period: 2013/2014

Presentation: Select Committee on Security and Justice

18 February 2015



1. Purpose of the presentation;
2. General Overview of the Report
3. Summary of the Thematic Areas of the Implementation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No.32 of 2007)
4. Accessibility of courts to Victims with Disabilities
5. Limitations and Possible Solutions
4. Way forward and Conclusion



The Purpose of this presentation is to:

- Present the consolidated annual performance of the reporting government stakeholders extracted from their individual Departmental Annual Reports.
- These are the Reports which the Minister of Justice and Correctional Services tabled in Parliament in 2014- in compliance with section 63 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No 32 of 2007) (the Act).
- Outline gaps identified in the implementation of the Act and provide possible solutions thereto
- The report covers the period 01 April 2013 to 31 March 2014

- **The Reporting departments/institutions** are listed in section 65(3) of the Act as being the Departments of Justice and Constitutional Development (DoJ&CD), Correctional Services (DCS); Health (DOH); Social Development (DSD), as well as the South African Police Services (SAPS) and the National Prosecuting Authority (NPA).
- However, it must be noted that this presentation excludes the annual performance of the Departments of Social Development and Health, due to late submission of their reports to the Minister for tabling.
- **The Co-opted departments/institutions** are the Departments of Women, Basic Education (DBE), Cooperative Governance and Traditional Affairs (COGTA), and the Legal Aid South Africa (Legal Aid SA). Efforts to co-opt the Department of Higher Education and Training are under-way.

The Report is segmented into the following Key Thematic Areas:

1. Legal Framework on Sexual Offences
2. Governance
3. Human and Physical Resources
4. Capacity Building: Training and Development
5. National Statistics
6. Public Education and Communication;
7. National Register for Sex Offenders
8. Legal and Policy Development

- The Act seeks to establish a criminal justice system that is responsive, preventative and supportive to the victims of sexual offences by:
 - Providing victims the maximum protection and least traumatising services;
 - Establishing political accountability and oversight over the intersectoral interventions against sexual offences;
 - Introducing new specific crimes, particularly crimes against children and persons with mental disabilities;
 - Requiring specialized services to certain victims of sexual violence; etc.
- The implementation of the Act is guided by the Constitution, Regional and International Instruments that impose certain obligations on the State parties to address gender-based violence, including sexual offences.

LEGAL FRAMEWORK IN SEXUAL OFFENCES

Legislation

- Domestic Violence Act, 1998;
- Employment of Educators Act, 1998
- Children's Act, 2005
- Older Persons Act, 2006
- Protection from Harassment Act, 2011;
- Prevention and Combating of Trafficking in Persons Act, 2013
- Judicial Matters Second Amendment Act, 2013, etc.

Policies, Directives

- National Policy Framework on the Management of Sexual Offences
- NPA's Policy Directives on Sexual Offences
- Health Directives;
- SAPS National Instructions, etc.

s9:
Equality
s10:
Dignity;
s11:Life;
s12:
Freedom
& security
of
persons;
s14:
Privacy;
s32:
Access to
informatio
n

Constitution

(i) African
Charter on the
Rights &
Welfare of the
Child; (ii) The
Protocol to the
African
Charter on
Human and
People's
Rights and on
the Rights of
Women in
Africa; (iii)
SADAC
Protocol on
Gender and
Development
Protocol
Development;
etc.

Regional Protocols

(i) UN Declaration of
Basic Principles of
Justice for Victims of
Crime and Abuse of
Power, 1985; (ii) UN
Convention on the
Rights of the Child,
1989; (iii) CEDAW,
1995; (iv) Beijing
Declaration and
Platform for Action,
1995; (v) Convention
on the Rights of
Persons with
Disabilities, 2007; etc.

International Protocols

**1. JCPS Cabinet: Committee on Sexual Offences-
chaired by the Min of Justice and Correctional
Services**

**2. Inter-Ministerial Committee on the Root Causes of
Violence against Women and Children- chaired by
the Min of Social Development**

**3. DG's Intersectoral Committee on Sexual
Offences- chaired by DG: DoJ&CD**

**4. National Task Team on LGBTI Issues
(includes NGO's)- chaired by DG: DoJ&CD**

5. National Operational Intersectoral Committee

**6. National Intersectoral Sexual Offences Courts Committee
(includes NGO's)**

7. Provincial Sexual Offences Courts Committees

8. National Intermediary Committee

9. Intra-Departmental Sexual Offences Committees

HUMAN AND PHYSICAL RESOURCES

- Human and Physical resources are critical to the implementation of any legislation.
- The Act requires the provision of victim-support services to minimize or, as far as possible, eliminate secondary traumatisation.
- The Act further encourages the intersectoral response to sexual violence, as a result One Stop Centres have been introduced to provide coordinated and specialized victim-support services
- The stakeholders progressively appoint additional human resources to improve services in sexual offences.
- The DG-ISC has noted the need to prioritize the appointment of youth and persons with disabilities so as to bridge the gap of unemployment among these categories.

SPECIALIZED HUMAN RESOURCES

Services	Title/Name of Post	Stakeholder	2012/2013	2013/2014
Intermediary services for child witnesses	Intermediaries	DOJ&CD	164 + 48 ad hoc= 212	185 + 48 ad hoc =233 (Source: DOJ&CD)
	Social Worker offering intermediary Service	DSD	46	46
Investigation support service	SAPS Social Workers	SAPS	76	76 (no new appointments)
Investigation service	Family Violence Child Protection and Sexual Offences (FCS) Unit Officers	SAPS	Not reported	2 631
Victim court preparation services	Court Preparations Officers	NPA	140	140 (no new appointments)
Victim-support services at TCC'S	TCC's Coordinators	NPA	10	21 (interviews to be finalized in 2014/15)
	Case Managers	NPA	10	21 (interviews to be finalized in 2014/15)
	Victim Assistance Officers	NPA	09	23 (Interviews to be finalized in 2014/15)



- The Act envisions a criminal justice system that is managed by skilled and competent officials and requires effective and efficient investigation, prosecution and adjudication of sexual offences cases.
- It expressly requires DoH, NPA and SAPS to develop training courses which must include social context in sexual offences so as to ensure sensitivity, care and dignity when dealing with victims of sexual violence.
- Although the Act only stipulates the requirement for training for DOH, SAPS and NPA Officials, all the role-player departments/institutions undertake training to equip the officials to understand and execute the provisions of the Act.
- **Challenge:** However, most of the stakeholders still lack measures to evaluate the impact of training.

TRAINING AND DEVELOPMENT

Department	Official trained	No trained in Jan 12- Mar 13	2013/2014
DoJ&CD	Court clerks, Registrars, Intermediaries, IT Coordinators; NGO's,	2 160	1 103
	Frontline Skills Course for JCPS stakeholders, NGO's; LGBTI NGO's; Youth;		377 Total= 1 480
NPA	Prosecutors, TCC stakeholders, Court preparation officers, SAPS, etc.	1 238	722
SAPS	Police detectives based at FCS Units	250	9 924
DCS	Social workers trained on Sexual Offender Treatment Programme; Correctional officials orientated on Correctional Programme for Sex Offenders and Youth Tool	-	431
TOTAL			12 557
			13



PHYSICAL RESOURCES: SEXUAL OFFENCES COURTS

- In June 2012, the former Minister of Justice and Constitutional Development established the Ministerial Advisory Committee on Adjudication of Sexual Offences Matters (MATTSO) to investigate the feasibility of re-establishing sexual offences courts (SOC's).
- The investigation led to the recommendation for the re-establishment of the SOC's, and in Aug 2013, the 1st SOC was launched by the former Minister in Aug 2013.
- During the period Aug 2013 to 31 March 2014, **21** regional courts were upgraded into sexual offences courtrooms in terms of the new Sexual Offences Courts Model.

Sexual Offences Courts

- The upgraded courts were selected from the National Resource Audit conducted by MATTSO in 2013, which identified 57 courts resourced closest to the Sexual Offences Courts Model.
- The selection criteria primarily focuses on courts with high sexual offending rate.
- Most of the rural courts were found to have major infrastructural limitations to meet the requirements of the Model.
- Some of the qualifying courts are in buildings classified as Heritage Buildings, and therefore cannot be modified to comply with the requirements of the model.
- Space remains as a serious limitation in many court buildings.
- DoJ&CD is currently engaging with DPW to include rural courts with capital works requirements in their batch system.

Sexual Offences Courts: Aug 13 to 31 Mar 14

Province	Sexual Offences Courts	No of Courtrooms
Eastern Cape	Butterworth	1
	East London	1
Gauteng	Palm Ridge	2
Kwa-Zulu Natal	Ntuzuma	1
	Pietermaritzburg	1
Limpopo	Lephalale	1
Mpumalanga	Tonga	1
	Secunda	1
Northern Cape	Kimberley	1
North West	Potchefstroom	1
	Klerksdorp	1
Western Cape	Wynberg	3
	Parow	2
Free State	Welkom	1
	Bloemfontein	3
TOTAL		21



The Physical Features of Sexual Offences Courts (SOC's)

- ❑ **Separate Private waiting rooms for child victims and adult victims** with relaxing furniture and information services;
- ❑ **Private Toilet facilities** for witnesses to which accused persons have no access;
- ❑ **Information screens** in the waiting rooms to empower victims with witness court preparation and other court services;
- ❑ **2-Way CCTV** to enable witness to identify the accused from the testifying room, where the identity of accused is in dispute;
- ❑ **Private Testifying Room** to allow the victim to testify outside the physical presence of the accused, which may cause more trauma;
- ❑ **A Bench Monitor** to give the presiding officer the close view of the victim from the testifying room so as to assess her demeanour and quickly respond to possible signs trauma or tiredness;
- ❑ **2 x Large screen monitors** that can be tilted and zoomed at 360 degrees to give the clear view of the courtroom and the Private Testifying Room
- ❑ **Standard colours:** Blue, orange and cream.

**Private Adult Waiting Room
With Information Screen**



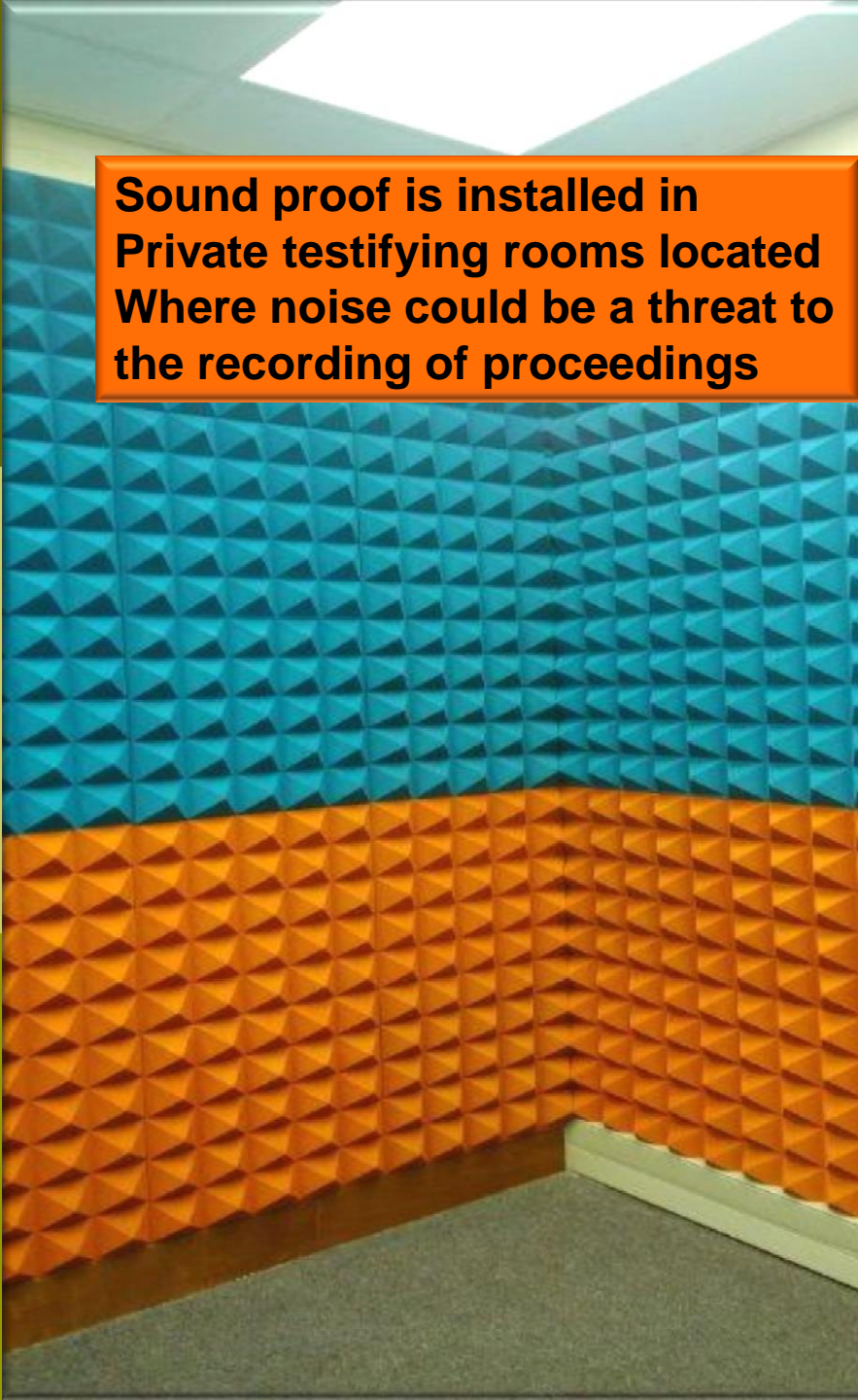
Dual View
CCTV

Butterworth Sexual Offences Court

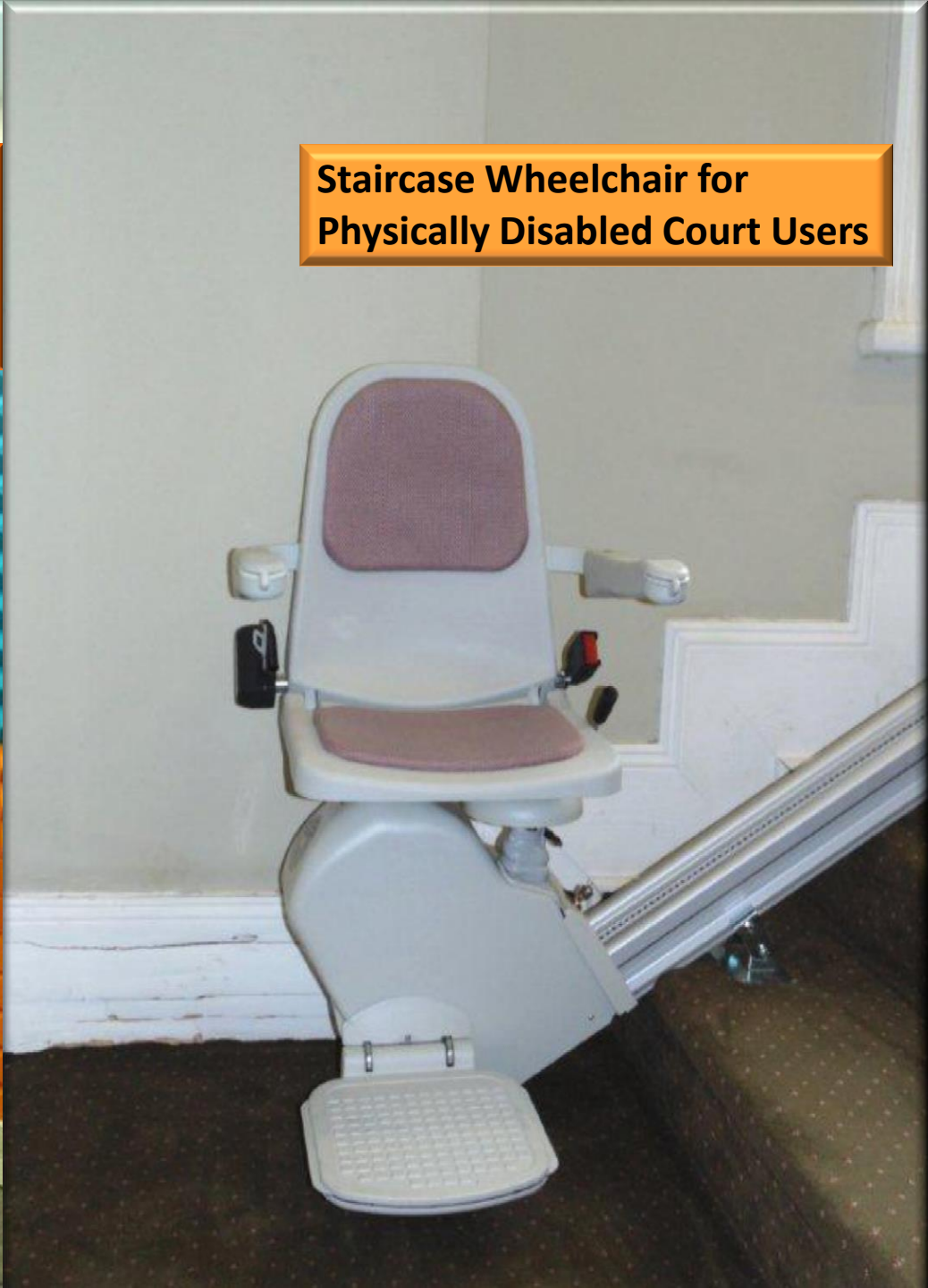
Private Testifying Room



**Sound proof is installed in
Private testifying rooms located
Where noise could be a threat to
the recording of proceedings**



**Staircase Wheelchair for
Physically Disabled Court Users**



Children/ Teen Children's Room Standard Furniture
Photographed from the warehouse

Child's bed



Sofa for Children's
Parents/ Guardians



Bookshelf



Sitting area
for children



Toy cabinet



2 x Ottoman
For Teen Witnesses



Private Waiting Room for Children/ Teen Witnesses



Impact of Sexual Offences Courts

- It is still early to determine the impact of the SOC's as not all of these courts have operated for a year.
- The DoJ&CD has commenced with the establishment of the following monitoring mechanisms:
 - The statistical tool for the SOC to assist in conducting the comparative analysis of court performance;
 - A National Strategic Plan for the Intersectoral Establishment and Management of the SOC's. This document outlines the different roles of stakeholders in SOC's and also identifies the monitoring mechanisms. It is now being taken through the intersectoral adoption process.
- Victim Service Satisfaction Survey will be conducted in 2015/16 to assess the effectiveness of the support services
- The SOC's are mainly intended to:
 - Reduce secondary traumatization of victims;
 - Reduce the turnaround time in the finalization of case;
 - Increase the conviction rate in these cases;
 - Reduce the incidence of sexual violence in the country; etc.

Overview of the National Statistics of SEXUAL OFFENCES

Source: DoJ&CD NOC

- The Sexual Offences statistics provided below indicate the general conviction trends of sexual offences over the period 2012/2013 and 2013/2014. Note that these figures refer to victims of sexual offences irrespective of gender and age.

Financial year	New Cases	Finalised			Removed from the roll					Cases Disposed	Outstanding Cases
		Guilty	Not Guilty	Other: Finalised	Other: Removed from the roll	Struck Of Roll	Transferred	Warrant of Arrest	Withdrawn		
2012/2013	10 806	4 698	3 276	255	55	1 993	235	808	6 568	17 888	11 217
2013/2014	10 875	4 401	2 990	200	152	1 794	454	674	5 478	16 143	10 750
% Change	0.64	-6.32	-8.73	-21.57	176.36	-9.98	93.19	-16.58	-16.60	-9.76	-4.16

National Statistics Brief Analysis

- **New cases:** There has been **0.64%** increase in the number of new cases registered by our courts. This is viewed in a positive light as it may indicate an improved reporting rate in these cases.
- **Conviction rate:** Out of the **7 391** cases finalised, **4 401** cases had the guilty verdict. This means that **59.6%** of the finalized sexual cases secured convictions.
- **'Not guilty' verdicts:** A decline of **8.73%** has been registered, and this may be attributed to the positive impact of specialized training offered by NPA.
- **Other finalised cases** refer to cases finalised with convictions on offences other than sexual offences. It also refers to court findings made in terms of s77(6) or 78(6) of the Criminal Procedure Act, 1977, e.g. the state president patients. In this reporting time, there was a **21.57%** drop in these cases, which indicates that more cases were finalized with verdicts on sexual offences.

National Statistics Brief Analysis

- **Cases Removed from the Roll** are counted as cases disposed of without a verdict.
- **'Other: Removed from the roll'** refer to 'duplicated' cases, e.g. where there was 'splitting of charges' or cases of multiple accused persons charged separately for one crime. It also refers to cases that collapsed due to deceased accused. **152** of these cases were cleared off; hence the achievement of **4.16%** decline in outstanding cases.
- **Struck off the Roll cases:** A drop of **9.98%** was registered in cases struck off the roll. These are usually cases removed from the roll after plea due to the disappearance/ unavailability of witnesses or accused or insufficient evidence. This decline is seen in a positive light as it may be the result of improved case screening process.
- **Warrant of Arrest:** A decline of **16.58%** is noted positively as it meant that more accused remained in the court system.
- **Withdrawn Charges:** A drop of **16.60%** was recorded, and this is viewed in a positive light as it may indicate that the case pre-screening process is improving.

TOP 10 REPORTED CHARGES: Jan 12 to 31 Mar 2013 (Source: DoJ&CD)	Total number
1. RAPE (section 3 and 4 of Act 32 of 2007)	13 889
2. Statutory Rape (sections 14,15 and 16 of Act 32 of 2007)	3 412
3. Attempt to commit a sexual offence (section 55(a) of Act 32 of 2007)	1 616
4. Sexual assault (section 5 of Act 32 of 2007)	753
5. Indecent assault (Act 23 of 1957)	395
6. Sexual assault - compelled self (section 7 of Act 32 of 2007)	57
7. Aiding; abetting; inducing; inciting; instigating; instructing; commanding; counselling or procuring another person; to commit a sexual offence (section 55(c) of Act 32 of 2007)	48
8. Abduction (section 13 Act 23 of 1957)	30
9. Conspiracy to commit a sexual offence (section 55(b) of Act 32 of 2007)	27
10. Incest (section 12(1) of Act 32 of 2007)	8

TOP 10 REGIONAL COURTS THAT REGISTERED THE HIGHEST VOLUME OF NEW SEXUAL OFFENCES CASES

Source: DoJ&CD

Regional Court	2012/2013	Regional Court	2013/2014
Mbombela	368	Soweto	351
Johannesburg	350	Pretoria	286
Zwelitsha	306	Johannesburg	285
Bloemfontein	274	Paarl	266
Pretoria	262	Mthatha	254
Wynberg [WC]	251	Mount Frere	245
Durban	247	Zwelitsha	237
Mthatha	228	Ga-Rankuwa	234
Paarl	225	Wynberg [WC]	231
Polokwane	213	Tembisa	225

Top 10 Courts with High Volume of Disposed Cases

Source: DoJ&CD

Regional Court	2012/2013	Regional Court	2013/2014
Bloemfontein (Sexual Offences Court (SOC))	444	Wynberg [WC] (SOC)	283
Mbombela	345	Zwelitsha	264
Johannesburg (To be SOC in 2015)	338	Johannesburg (To be SOC in 2015)	263
Mthatha (To be SOC in 2015)	305	Paarl	247
Wynberg [WC] (SOC)	287	Pretoria (SOC)	244
Ga-Rankuwa	277	Mthatha	238
Zwelitsha	261	Pietermaritzburg (SOC)	226
Pretoria (SOC)	244	Ga-Rankuwa	224
Pietermaritzburg (SOC)	237	Bloemfontein (SOC)	213
Madadeni	202	Klerksdorp (SOC)	212



the doj&cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

ONE-STOP SUPPORT SERVICES FOR VICTIMS OF SEXUAL OFFENCES

- The One-Stop Centres are gradually showing strides of significant intervention against sexual offences, and are located in rural, semi-rural and urban areas. These are:
 - The Victim-Friendly Rooms established at police stations by SAPS to provide private and victim-friendly environment for interviews, counselling services and statement-taking.
 - The Thuthuzela Care Centres established at hospitals by the NPA, mainly to ensure that crime reporting is done where medical services are available so as to quickly capture the DNA evidence before it can be contaminated. These centres provide specialized services drawn from police, prosecution, medical practitioners, counsellors, case managers, etc.
 - Khuseleka One Stop Centres are established by DSD to provide victims with counselling services, trauma debriefing services, etc.

ONE-STOP CENTRES PROVIDING SUPPORT SERVICES TO VICTIMS OF SEXUAL OFFENCES

Physical Resource	Service Provided	Stakeholder	2012/2013	2013/2014
Victim Friendly Rooms (VFR)	Private interview & statement taking in a private victim friendly room.	SAPS	914 (799 are at fully fledged police stations)	947
Thuthuzela Care Centres (TCC's)	Provides one-stop support services under one facility for victims of sexual violence	NPA	50 (less one because of staff shortage)	51
Khuseleka One Stop Centres	Provides counselling services for victims of GBV	DSD	10	Not reported
VEP Shelters	Providing safe shelter to adult victims of GBV (mostly women and their children)	DSD	97 (managed by NGO's funded by DSD)	Not reported

Some of the High Profile Cases Received by TTC's Source: NPA

Case	Court	Charge	Sentence/ Status
S v Jezile	Manenberg WC	Human Trafficking of a 14 years old girl; Rape	22 years imprisonment
S v Motapane	Natalspruit, GP	Kidnapping, Rape & Murder of a 4 year old girl (daughter of a neighbour)	Life imprisonment & 7 years for Kidnapping
S v Ruiters	George, WC	Rape of 8 year old girl; Murder	On Trial
S v Mthembu & Another	Empangeni, KZN	Rape of a 21-month toddler	On Trial
S v Sereo	Galeshewe, Kimberley (To be SOC in 2015)	Rape of a 6 weeks baby by uncle	On Trial

CONVICTION RATES IN TCC CASES

Source: NPA

Sexual Offences Cases	2012/13	2013/14	% Increase/ Decrease
New reported cases at TCC's	33 112	30 706	-7.3%
Cases finalized	2 248	2 357	+4.8%
No of Convictions in finalized cases	1 372	1 554	+13.3%
Average conviction rate	61.03%	65.9%	+4.87%

LIFE SENTENCES IMPOSED ON SEXUAL OFFENCES CASES INVESTIGATED BY FCS

Cases investigated by the Family Violence, Child Protection and Sexual Offences (FCS) Units	2010/11	2011/12	2012/13	2013/2014
	299	389	499	465
TOTAL	1 652			

These figures show the effectiveness of police specialization in sexual offences cases.

It must be noted that DoJ&CD is in the process of improving its data system to capture the types of sentences imposed on sexual offences cases.

Public Education on Sexual Offences

- Public education is universally recognised as one of the impactful measures of crime prevention.
- Our Constitution further affords everyone the right to information, and it is through public education campaigns that people are informed of their rights and ways of exercising such rights.
- During this period of reporting, the National Campaign of the 16 Days of Activism of No Violence against Women had to be halted as the country had to mourn the passing on of the former President Nelson Mandela. This impacted badly on the programmes planned by the stakeholders during this time.
- It may also be noted that the planning for elections also disrupted certain public education interventions planned for certain communities.
- The following slides give the summary of public education interventions held by the reporting stakeholders.

Ndabezitha Programme in Rural Communities Only

- In 2006 the Department joined forces with the NPA and the National House of Traditional Leaders to start the Ndabezitha Programme under the leadership of NPA.
- Initially, this Programme sought to address cultural practices that may subject women and girls to domestic violence, but is now gradually taking a holistic approach to gender-based violence and sexual abuse;
- It focuses on the training of traditional leaders to manage cases of gender-based violence in their communities in accordance to the applicable laws, and also encourages them to refer serious cases to our courts;
- Through Ndabezitha Izimbizo, rural men and boys together with women and girls are sensitized about practices leading to gender-based violence,
- About **9** Ndabezitha Izimbizos are held annually, but in 2013/14 only **4** izimbizos were hosted as most communities were planning for elections. The fact that the 16 Days of Activism Campaign was halted due to the passing on of the former President Mandela also impacted negatively on planned deliverables.

Ndabezitha Izimbizo in Rural Communities

Province	Rural Communities	Legislation/ Topics of Education	Stakeholders	No of persons reached
Northern Cape	Gamorona Village	Ukuthwala; Marital Rape & Culture; Gender Equality issues; Domestic Violence; etc.	DoJ&CD; NPA, Traditional Leaders; Local NGO's	1 900
Free State	Thibella Village			
North West	Pitsidisulejang Village			
Mpumalanga	Matsamo Village			

Public Education Initiatives: DoJ&CD

2013/2014

Legislation	Province	Type of initiative	No of Events	No of people reached
Sexual Offences, Domestic Violence; Prevention from Harassment; Drug abuse; Trafficking in Persons	All provinces	Public education campaign: Drug abuse & Sexual Offences (done with NGO's); School education campaign; Ukuthwala linked to HIV/AIDS, NRSO & Sexual Offences; Sexual Abuse of Older Persons (done with NGO's); Reaching to Older Persons at Pension Pay-Points; Door-to-Door campaign on Trafficking in persons & Sexual Offences at Taxi Ranks, Shopping Malls & Street Intersections;	119	43 324
Domestic Violence (marital rape; ukuthwala, etc.)	NC, FS, NW, Mpumalanga	Ndabezitha Izimbizo in Rural Communities ONLY	04	1 900
Victims Charter	NC, Vrede	Debriefing for Victims of Sexual Offences; Public Education in partnership with the Religious Sector	02	+1 000
Sexual Offences	All provinces	Radio and TV interviews	19	Unknown
NRSO	All provinces	Radio, Print and TV interviews	13	Unknown
TOTAL			157	+ 46 224³⁸

Other Depts: Public Education and Awareness

Department/ Institution	Type of event	No of Events	No Reached
NPA	Radio interviews; education campaign at schools, universities, training colleges, hospitals, and health forum events.	15	Not reported
DCS	Correctional programmes for inmates; Individual & Group Therapeutic programmes	Not reported	13 451 offenders
SAPS	Door-to-door campaigns, dialogues, round-table discussions and outreach programmes	471	More than 2 900 (figures not mentioned in other events)
	Print media (The Star: re arrest and sentencing of the 'Birthday Rapist'; Love Life Magazine interview on 'Corrective Rape'; TV interviews (The Big Debate Show); Roadblocks and Stop and Search; Educational messages on Salary Advices for staff members;		
TOTAL		+486	+ 16 351



National Register for Sex Offenders (NRSO)

- The NRSO came into operation on the 30 June 2009.
- The Register is established within DoJ&CD, and it keeps the records of sex offenders convicted of sexual offences against children and persons with mental disability.
- The primary objective of the Register is to restrict registered offenders from working in environments that will expose them to children and persons with mental disability.
- The table below shows registrations over 3 financial years as follows:

NRSO REGISTRATIONS: 2011/ 12 TO 2013/2014

2011/12	2012/13	2013/14
2 340	3 526	15 452

NATIONAL REGISTER FOR SEX OFFENDERS

- The implementation of the NRSO has since 2009 been fraught with challenges.
- It was in 2013/14 where DoJ&CD experienced a breakthrough from the series of interventions against systemic blockages. The registrations increased by **11 926**, and this figure includes **8 376** historic convictions.
- Out of the **20 118** historic convictions received from SAPS, the NRSO purified and successfully registered 8 376 cases.
- In 2013/14 DoJ&CD initiated the Manual Data Verification Project to purify the outstanding **11 742** historic convictions for registration purposes. These are the cases where the age or the mental status of the victim has to be verified manually from the case records.



Challenges Experienced by NRSO

Challenges	Possible Solutions
<p>s50 of the Act requires the registration of historic convictions over an unlimited period</p>	<p>This provision must be amended to apply to historical convictions subjected to a limited time.</p>
<p>The data systems of DoJ&CD, SAPS, DCS and DoH were previously not capturing the age and mental status of the victim; as a result since 2009 only 8 376 historical convictions had been registered.</p>	<p>The data systems are currently amended to incorporate the details of the victim. IJS is also developing an integrated data information system.</p>
<p>The Act further requires DoH to submit details of persons subjected to a direction in terms of s77(6)/ s78(6) of the CPA as a result of act of sexual offences against children or mentally disabled victims.</p>	<p>DoJ&CD is still engaging with DoH to receive this data.</p>
<p>It may be too risky to issue clearance certificates from the 16 868 registrations made as at 31 Dec 2014.</p>	<p>DoJ&CD has recently proposed an amendment to Form 9 (titled: Certificate in Respect of Particulars) to allow the Registrar to revoke the authenticity or validity of the certificate upon discovery of</p>

Proposed Merger of the NRSO and National Child Protection Register (NCPR)

- In December 2012, DoJ&CD was commissioned by Parliament to investigate the feasibility of merging the NRSO with the NCPR.
- In 2013, DoJ&CD established a Task Team on the Merger of the Registers with DSD to conduct this investigation.
- During the reporting period, the Task Team was in the process of finalizing its investigation.
- The investigation report was planned to be finalized in December 2014 (i.e. outside this reporting period)
- For the purposes of updating this Committee, it may also be mentioned that in Dec 2014, this investigation was indeed finalised, and the Task Team submitted its report to the Minister of Justice and Correctional Services and the Minister of Social Development for consideration and decision.
- The report is still being considered, and will be submitted to Parliament upon approval by the 2 Ministers.

Legal and Policy Developments

- DoJ&CD published the National Policy Framework on the Management of Sexual Offences by notice in Gazette No 36804 dated 6 Sept 13. This Policy guides all stakeholders on the implementation of the Act. It was developed in consultation with all stakeholders, including NGO's.
- Judicial Matters Second Amendment Act, 2013 (Act No 43 of 2013) was signed into law in Jan 2014. It amends the Act by inserting section 55A to provide the Minister with the authority to designate a court as a sexual offences court. It also allows the designation of any Division of the High Court as a sexual offences court.
- Pursuant to the decision of the *Teddy Bear Clinic for Abused Children and RAPCAN v Minister of Justice and Constitutional Development and Another [2013]*, in October the Bill was published for public comment.
- On 3 Feb 15 DoJ&CD briefed the Portfolio Committee of Justice and Correctional Services on the amendments to sections 15 and 16 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (refer to Parliamentary Queries, below)

Physical Accessibility to Victims with Disabilities: DoJ&CD

- Out of **684** magistrates' courts, **366** court buildings have facilities which accommodate the physical accessibility needs of people with disabilities. These include the provision of:
 - separate entrances at ground level,
 - dedicated parking spaces,
 - ramps,
 - Toilets for the physically disabled, and
 - Lifts with voice outputs
- A second phase is being initiated to ensure that the remaining **318** court buildings fit the immediate needs of court users with disabilities.
- DoJ&CD is also in the process of establishing **the Disability Desk** to provide specialised services in the implementation of the UN Convention on the Rights of Persons with Disabilities

Language Accessibility to Victims with Disabilities: DoJ&CD

- In 2010 DoJ&CD initiated a sign language skills programme for interpreters. Thus far, 45 interpreters have gone through the 12-month Basic Sign Language Course.
- **Challenge:** However, to keep the learned skills 'alive' and growing has been a challenge due to lack or minimal practice. The fact that very few of these cases get to the court rolls has led to loss of skills by some of the trained interpreters.
- **Database:** To ensure the availability of these services upon demand, each court keeps a database of professional sign language interpreters, in addition to the ones trained by the Department. The Department also uses the services of DEFSA.

Information Accessibility to Victims with Disabilities: DoJ&CD

- **Braille Information Booklets:** Since 2012/2013, DoJ&CD has been providing braille public education material on the Children's Act No 38 of 2005; Domestic Violence Act No 116 of 1998, Maintenance Act No 99 of 1998, and the Older Persons Act 13 of 2006. These pieces of legislation recognize sexual abuse, except for the Maintenance Act.
- During the 16 Days of Activism, the Minister of Justice and Correctional Services launched the **Braille Constitution** in a National Roundtable Discussions on Equal Access to Justice for Persons with Disabilities hosted by the DoJ&CD;
- **18- Font size public education booklets** on Domestic Violence and the Older Person's Act were also produced for the partially blind witnesses, including women.
- **Information DVD's** Sexual Offences and Domestic Violence have been developed to provide victim-support information at Private Waiting Rooms for Witnesses
- The Department is now in the process of producing a '**Talking Information Booklet for Sexual Offences**' for blind witnesses. The Intermediary Information Booklet is also in the process of being converted into a braille format.

LIMITATIONS AND POSSIBLE SOLUTIONS

OTHER LIMITATIONS

The lack of interface between the data capturing systems of the different implementing stakeholders. This leads to imbalanced reporting on statistics.

The Judicial Matters Second Amendment Act 43 of 2013 needs clarity as to whether it is the entire court building or a particular regional courtroom that may be designated into a sexual offences court.

It is currently difficult to measure the impact of public education initiatives due to lack of indicators.

The reporting time currently falls outside the PFMA reporting period.

POSSIBLE SOLUTIONS

The Integrated Justice System (IJS) is attending to this matter.

DoJ&CD has started a stakeholder-consultation process to address this matter.

The development of the national indicators was in the agenda of the National Council on GBV. Without the operation of this Council, the Department of Women will be requested to take over this project.

The DG ISC recommends that the reporting time be aligned with the PFMA time of reporting to ensure that performance is in line with budget allocations and related accountabilities.

OTHER LIMITATIONS AND POSSIBLE SOLUTIONS

OTHER LIMITATIONS	POSSIBLE SOLUTIONS
<p>The delays in the submission of annual reports by some of the reporting stakeholders often leads to delayed compliance with section 65(3) of the Act by the Minister (the tabling of these reports in Parliament)</p>	<p>It is recommended that section 65(3) of the Act be reviewed to address this matter.</p>
<p>There is currently no baseline to measure the average case cycle in sexual offences. Without this baseline, it becomes difficult to determine whether or not there was a delay in the finalization of the sexual offences case.</p>	<p>DoJ&CD will be conducting a research to determine the average turnaround time in the finalization of a case of sexual offences.</p>
<p>The lack of or inadequate space in many court buildings to accommodate the specifications of the Sexual Offences Courts Model.</p>	<p>DoJ&CD is currently in discussions with the Department of Public Works to effect the required infrastructural changes.</p>
<p>The uncoordinated One Stop Victim Support Services Centres (i.e. the TCC's, Khuseleka One Stop Centres, FCS, etc.) result in the unnecessary duplication of resources.</p>	<p>There is a need for a study to investigate the viability of establishing a single and coordinated One Stop Victim Support Services Model that will function to optimize the performance of the sexual offences courts.</p>
<p>Specialization is key when dealing with cases of sexual offences, and should therefore be introduced at all service points for the victim.</p>	<p>Skills development programmes must be reviewed, intensified and increased.</p>

Parliamentary Queries & Responses

Query	Dept/ Institution	Response
What is the progress with the Criminal Law (Sexual Offences and Related Matters) Amendment (Amendment Bill): re amendments to sections 15 & 16 (Teddy Bear and J cases)?	DoJ&CD	<ul style="list-style-type: none">• In October 2014, the Bill was published for public comment, and over 400 submissions were received.• On 3 Feb 15, DoJ&CD briefed the Portfolio Committee of Justice and Correctional Services on the Bill, which primarily removes the State's intervention in matters of consensual sex between children aged 12-16 yrs.• This proposal received strong public opposition in that the net effect of the Teddy Bear decision and consequently the Bill, lowers the age of consent to consensual sexual activities (for children between 12 and 16 years).
What is the progress on the Sexual Offences Courts Progress?	DoJ&CD	Covered in this presentation.

- There has been a progressive realisation of the Act in the midst of all the highlighted challenges;
- The Annual Sexual Offences Indaba hosted by the NPA continues to strengthen relations and augment collaborations with the civil society;
- The Ndabezitha Programme continues to make inroads in balancing culture and the Constitution in rural communities;
- The participation of the NGO's in the National Sexual Offences Courts Committee will strengthen the intersectoral approach and collective support against sexual violence;
- The return of the Sexual Offences Courts is expected to radically improve response against sexual violence

Parliamentary Queries & Responses

Query	Dept	Response
Are the Departments engaging with the religious sector in the intervention process against sexual violence, e.g. the National Inter-Faith Council of South Africa?	All	DoJ&CD: The DoJ&CD is currently engaging with faith-based organizations (FBO's) such as the SA Council of Churches, as the follow up to the commitments made by them to fight gender-based violence at the 2013 Victims Charter Awareness-raising Campaign held in Vrede.
To what extent are the organizations in the National Children's Rights Committee involved in government work?	DSD	<ul style="list-style-type: none"> • Civil society play a crucial role as support structures to government to ensure care and protection of children from all forms of abuse, neglect and exploitation. They are involved in programmes such as parenting programmes, Isibindi programme and Ke-Moja Programme on substance abuse. • These organizations concluded the Service Level Agreements with government to assist in the provision of support services to all children from the prevention to early child intervention through the statutory process and after-care. • DSD provides financial support to NGO's, according to the Department's funding prescripts.



THANK YOU



the doj&cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA