

SAPS RESPONSE TO THE PORTFOLIO COMMITTEE ON POLICE 10 MARCH 2021

- 1. MENTAL HEALTH CARE ACT**
- 2. SPECIAL SCHOOLS**





PURPOSE

The purpose of the presentation before the Portfolio Committee on Police is to provide response to the following reports:

- 1) Report of the National Investigative Hearing Into the Status of Mental Health Care in South Africa, South African Human Rights Commission (SAHRC)**
- 2) Safety and Security Measures in Schools for Children with Disabilities**



PRESENTATION CONTENT

1. QUESTIONS FROM SAHRC REPORT
2. SAPS RESPONSE TO MHC REPORT
3. RESPONSE TO SCHOOL SAFETY REPORT
4. FEEDBACK ON SHELTERS



1. LIST OF QUESTIONS FROM SAHRC REPORT



QUESTIONS FROM THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

a.	Does the SAPS have in place any training programmes that specifically aim to assist its staff in managing cases that involve MHCUs? This answer should specifically address whether any such training is aligned with or otherwise based on the CRPD and the White Paper on the Rights of People with Disabilities.
b.	Statistical information of cases dealt with by the SAPS involving MHCUs over the last ten financial years, commencing in 2007/2008?
c.	How does the SAPS monitor the effectiveness of its policies that aim to assist MHCUs?
d.	What are the costs associated with the delivery of resources to support MHCUs?
e.	What, in your view, are key challenges confronting SAPS when engaging with MHCUs?
f.	What are your proposed recommendations to address these challenges?



QUESTIONS FROM THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

g.	In your view, what key priority areas require the allocation of more resources in order to adequately accommodate the varied needs of MHCUs by the SAPS?
h.	What steps have the SAPS taken to ensure early identification and referral of MHCUs in terms of section 40 of the Mental Health Care Act, 2002?
i.	Has SAPS developed guidelines for the implementation of Section 40 of the Mental Health Care Act? If no, why not? If yes, what have been barriers to implementation of these guidelines?
j.	Has SAPS trained its employees to assess whether a person is a danger to himself or herself or others due to mental condition or intellectual disability?
k.	If so, what training has been undertaken and by which members of the SAPS?



QUESTIONS FROM THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

l.	Has SAPS collaborated with any state departments, members of civil society, or MHCU advocacy groups in developing guidelines for early identification and the management of forensic and behaviourally disturbed clients in police custody while in transit to or awaiting hospitalisation?
m.	Any other information of relevance to SAPS' engagements with MHCUs?
n.	What is the status of the SAPS investigation into the Gauteng Mental Health Marathon Project?



2. SAPS REPOSNSE TO MHC QUESTIONS



(A) DOES THE SAPS HAVE IN PLACE ANY TRAINING PROGRAMMES THAT SPECIFICALLY AIM TO ASSIST ITS STAFF IN MANAGING CASES THAT INVOLVE MHCUS? THIS ANSWER SHOULD SPECIFICALLY ADDRESS WHETHER ANY SUCH TRAINING IS ALIGNED WITH OR OTHERWISE BASED ON THE CRPD AND THE WHITE PAPER ON THE RIGHTS OF PEOPLE WITH DISABILITIES.

South African Police Service has developed a **Vulnerable Group Learning Programme** (VGLP) that addresses services for Mental Health Care Users (MHCUs). The Learning Programme was approved on 22 April 2020. The Train-the-Trainer programme was conducted from 9 – 20 November 2020.

This Learning Programme is aligned to the UN Convention on the Rights of People With Disability (UNCPRD) and will be provided in the In-Service Training to SAPS members.

It will also be presented at Basic Training where the new intake of recruits who are Police Trainees will be sensitized and well equipped in managing cases involving MHCUs, in terms of the Mental Health Care Act (Act 17 of 2002). Currently trainees are sensitized to handling of MHCUs for detention purposes in basic training.



RESPONSE TO QUESTION (A) (CONT.)

In ensuring sensitization of members and addressing the vacuum, capacity building sessions were conducted during 2018/2019 on the following areas:

- Standing Order (G) 291 on Mental Health Care Act (Act 17 of 2002), which provides for the provision of services to MHCUs.
- Section 40 of the Mental Health Care Act (Act 17 of 2002).
- The capacity building sessions were targeted at Station Commanders, Frontline services members (first responders), Social Crime Prevention Members and Visible Policing Commanders.
- These sessions were conducted throughout the nine (9) Provinces.



RESPONSE TO QUESTION (A) (CONT.)

Capacity Building Sessions were conducted as follows

Province	Date	No of participants
Limpopo	23 August 2018	40
KwaZulu-Natal	28 August 2018	45
Mpumalanga	13 September 2018	40
Western Cape	19 September 2018	53
Eastern Cape	09-11 October 2018	61
North West	13 November 2018	56
Free State	28 November 2018	58
Gauteng	28 January 2019	29
Northern Cape	29 January 2019	68

Total Number of members reached: 450



RESPONSE TO QUESTION (A) (CONT.)

In addition, in order to ensure that members are knowledgeable, each province was issued with a SAPS Mental Health Care Act file for distribution to Clusters and stations during 2018. These files contained the following:

- The Mental Health Care Act, 2002(Act 17 of 2002) including Regulations
- Standing Order (G) 291 on the Mental Health Care Act, 2002
- **MHCA Form 22** (handing over custody by the SAPS of a person suspected of being mentally ill to Health establishment)



RESPONSE TO QUESTION A (CONT.)

- **MHCA Form 2** (transfer of mental health care user from detention to Health establishment)
- **MHCA Form 25** (Notice of abscondment from health establishment by mentally ill person to SAPS)
- **MHCA Form 26** (Notice of returning absconded Mental Health Care User to the Health establishment by SAPS)
- **MHCA Form 2** (Report of abuse of Mental Health Care User to the Review Board)



(B) STATISTICAL INFORMATION OF CASES DEALT WITH BY THE SAPS INVOLVING MHCUS OVER THE LAST TEN FINANCIAL YEARS, COMMENCING IN 2007/2008?

- There is **no statistical information** available currently.
- SAPS Systems are not configured to capture data on the MHCUs cases.
- However, in addressing systemic issues impacting on accessing services, monitoring and reasonable accommodation for victims and offenders with disabilities including MHCUs, the SAPS has embarked on enhancement processes of the docket and forms used for victim and offender information
- Enhancement has been conducted for SAPS 3M (a) SAPS 3M (b) and SAPS 3M (g) where ticking blocks have been created in capturing different disabilities during statement taking and docket compilation.
- Once institutionalized these enhancements will also be done for the CAS / ICDMS for electronic capturing of information.



RESPONSE TO QUESTION B (CONT.)

- The process of enhancing the forms has been finalized and forms uploaded on the SAPS intranet for utilization by all SAPS members.
- Once the data regarding persons with disabilities can be captured on the information system, this can be used for monitoring purposes in terms of people with people with disability who has been through the SAPS System (victims/perpetrators).



(C) HOW DOES THE SAPS MONITOR THE EFFECTIVENESS OF ITS POLICIES THAT AIM TO ASSIST MHCU'S?

Combined Compliance Assurance visits were conducted in the following provinces in 2019/2020:

Province	Province	Province	Province
Eastern Cape	Gauteng	Limpopo	Northern Cape
Willowvale KwaZakele	Alexandra; Booyens Norkem park; Moffatview, Diepsloot; Rietgat; Dobsonville Soshanguve	Beitbrug; Maleboho	Noupoort; Colesburg
			North West
			Mareetsane;; Schweize Reineke; Stilfontein
Free State	KwaZulu-Natal	Mpumalanga	Western Cape
Meloding Bronville	Wentworth, Colenso; KwaMashu; KwaMakhutha	Blinkpan; Laersdrift; Mbuzini	Bonteheuwel; Manenburg; Deyselsdorp; Phillipi East



(E) WHAT, IN YOUR VIEW, ARE KEY CHALLENGES CONFRONTING SAPS WHEN ENGAGING WITH MHCU'S?
(F) WHAT ARE YOUR PROPOSED RECOMMENDATIONS TO ADDRESS THESE CHALLENGES?

Key Challenges	Recommendations
<ul style="list-style-type: none">• Accessing paramedics, ambulances & restraining a Mental Health Care user in the absence of the sedatives and tranquilizers	National intervention to enable the Department of Health to enforce uniform standards nationwide
<ul style="list-style-type: none">• Early identification and referral of MHCU	Psychiatrists and other professional Mental Health Care workers are trained; and SAPS core functions do not accommodate these skills
<ul style="list-style-type: none">• Lack of bed accommodation at health institutions which result in MHCU being detained at police stations	DoH should ensure the availability of facilities in all areas to eliminate risk associated with detention



(D) WHAT ARE THE COSTS ASSOCIATED WITH THE DELIVERY OF RESOURCES TO SUPPORT MHCUS?

(G) IN YOUR VIEW, WHAT KEY PRIORITY AREAS REQUIRE THE ALLOCATION OF MORE RESOURCES IN ORDER TO ADEQUATELY ACCOMMODATE THE VARIED NEEDS OF MHCUS BY THE SAPS?

- The process of enhancing the forms has been finalized and forms uploaded on the SAPS intranet for utilization by all SAPS members.
- Once the data regarding persons with disabilities can be captured on the information system, this can be used for monitoring purposes in terms of people with people who have been through the SAPS System (victims/perpetrators).



(H) WHAT STEPS HAVE THE SAPS TAKEN TO ENSURE EARLY IDENTIFICATION AND REFERRAL OF MHCUS IN TERMS OF SECTION 40 OF THE MENTAL HEALTH CARE ACT, 2002?

- The SAPS does not have the skill of early identification of MHCUs. More often, SAPS is called out to assist in transportation to the established facilities. Generic observation is used by the SAPS or the observation by the member who is bringing in the MHCU to the police station.
- This is a skill that Psychiatrist and other professional Mental Health Care workers are trained for. The SAPS does not have the competence in this field but would be expected to play a role of referring to such professionals. The SAPS may also be expected to provide support to such professionals.



(I) HAS SAPS DEVELOPED GUIDELINES FOR THE IMPLEMENTATION OF SECTION 40 OF THE MENTAL HEALTH CARE ACT? IF NO, WHY NOT? IF YES, WHAT HAVE BEEN BARRIERS TO IMPLEMENTATION OF THESE GUIDELINES?

- During 2019, SAPS embarked on the review of the **Standing Order (General 291) on Mental Health Care Act** to upgrade it to **National Instruction on Mental Health Care Act 2002**.
- Final Inputs and comments were obtained from police stations across the country in April 2019.
- The draft national instruction is currently with Division: Legal & Policy Service for legal opinions and inputs.
- **SAPS Guidelines for Policing of Persons with Disabilities** was developed and approved on 23 August 2019 and distributed to provinces for implementation.



RESPONSE TO QUESTION I (CONT.)

- An **Integrated Action Plan** for Provision of Policing Service for People with Disabilities was developed and approved on 16 September 2019.
- The Plan directs affected Divisions, Components and Provinces to enable availability of statistics, Sign Language Interpreters, access to buildings etc.
- The cost regarding services to MHCU are included in the SAPS' operational budget and cannot be disaggregated.
- Extensive consultation was conducted during the development of the Integrated Action Plan and Policing Guidelines.



(J) HAS SAPS TRAINED ITS EMPLOYEES TO ASSESS WHETHER A PERSON IS A DANGER TO HIMSELF OR HERSELF OR OTHERS DUE TO MENTAL CONDITION OR INTELLECTUAL DISABILITY?

(K) IF SO, WHAT TRAINING HAS BEEN UNDERTAKEN AND BY WHICH MEMBERS OF THE SAPS?

- Members of the SAPS are not trained in assessing the mental condition of a disabled person, this does not fall within SAPS competency.
- SAPS members are often called out to the place where a MHCUs is reported by either the family member or the concerned community member.
- This field of assessing will fall within the field of Psychiatric competence as they are trained to assess whether a person is a danger to himself/herself or others.



(L) HAS SAPS COLLABORATED WITH ANY STATE DEPARTMENTS, MEMBERS OF CIVIL SOCIETY, OR MHCU ADVOCACY GROUPS IN DEVELOPING GUIDELINES FOR EARLY IDENTIFICATION AND THE MANAGEMENT OF FORENSIC AND BEHAVIOURALLY DISTURBED CLIENTS IN POLICE CUSTODY WHILE IN TRANSIT TO OR AWAITING HOSPITALISATION?

The SAPS consulted with different Government depts. and CSOs in the development of guidelines for provision of services to people with disabilities as well as on the Integrated Action Plan. Early identification and management was however not part of this consultation:

Government Departments	Civil Society Organisations
Department of Social Development	Disability representatives
Department of Health;	South African Federation for Mental Health
Department of Justice and Constitutional Development;	National Council for People with Physical Disabilities.
South African Human Rights Commission (Disability Desk)	South African Blind Association
The then Department Women, Children and People with Disability	South African Disability Alliance
	Deaf SA
	Disabled People of South Africa



(M) ANY OTHER INFORMATION OF RELEVANCE TO SAPS' ENGAGEMENTS WITH MHCUS?

- SAPS is in the process of developing a Memorandum of Agreement with Cape Mental Health Organisation with the aim of institutionalising the Sexual Assault Victim Empowerment (SAVE) Model which is currently effective only in the Western Cape Province.
- This could impact on MHCUs who are also victims of sexual offences. The MoA will form the basis of national application of the model,
- There has been engagement between SAPS and South African Federation for Mental Health and the Department of Health in regard to finding a solution for the availability of appropriate paramedics and ambulance services.



(N) WHAT IS THE STATUS OF THE SAPS INVESTIGATION INTO THE GAUTENG MENTAL HEALTH MARATHON PROJECT?

Investigations conducted for North and South Gauteng were submitted to the Deputy Director Public Prosecutor (DPP) for decision. The Gauteng Mental Health Marathon Project for both North and South of Gauteng is handled by the DPP for North Gauteng.

Instructions were given by the DPP to obtain warning statements from the three identified suspects with intent to criminally prosecute them on the following charges:

- Assault with intent to do Grievous Bodily Harm (GBH);
- Counts of contravening section 70(1) (c); read with sections 1 and 70(2) of the Mental Health Care Act (Act 17 of 2002);
- Counts of contravening Section 86(1); read with Sections 1 and 38 of the Public Finance Management Act (Act 1 of 1999) in respect of one suspect Counts of Fraud.



RESPOND TO QUESTION N (CONT.)

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- A decision was taken to convert the 32 Inquest dockets and 43 enquiry files into one case docket.
- One case docket Atteridgeville CAS 319/03/2019 was registered and handed over to the Director of Public Prosecution (DPP) North Gauteng on 15 March 2019 for perusal.
- **The charges are inter-alia:** Contravention of Section 8 of Mental Health Care Act (Act 17 of 2002), Fraud and Assault.
- The DPP has decided to hold a joint inquest for all the deceased and judge appointed. Court hearing scheduled to for the 12th April 2021 at North Gauteng High Court



3. SAFETY AND SECURITY MEASURES IN SCHOOLS FOR CHILDREN WITH DISABILITIES



BACKGROUND

- Safety in the learning environment is addressed in terms of the School Safety Protocol for the prevention of crime and violence in schools that was signed between the Ministers for Basic Education and Police in April 2011.
- This collaborative partnership is aimed at building resilience against crime at schools, thus enhancing a safer and a peaceful environment for positive development.
- The School Safety Protocol is being reviewed by the Department of Basic Education and the South African Police Service to be in line with the diverse forms of violence and crime that are prevailing at schools currently.



SCHOOL SAFETY PROTOCOL - PURPOSE

- The primary mandate of protecting schools, be it special or ordinary schools **rests with the Department of Basic Education**. SAPS is secondary stake holder.
- The partnership between the Department of Basic Education and the South African Police Service is intended to promote safety at schools and to prevent the involvement of learners in crime.



SCHOOL BASED CRIME AWARENESS PROGRAMMES

In order to ensure the effective implementation of the School Safety Protocol, schools are linked to police stations and priority schools including schools with special needs are identified focusing on the following:

- Bullying (all kinds);
- Gender based violence;
- Gangsterism;



SCHOOL BASED CRIME AWARENESS PROGRAMMES (CONT.)

- Use of weapons;
- Substance abuse;
- Occult –related crimes and harmful religious practices.

The above programmes include crime prevention operations and school based crime awareness campaigns.



IDENTIFIED SPECIAL SCHOOLS 2020/2021

PROVINCE	CLUSTER	STATION	NAME OF SCHOOL	CHALLENGES	PROGRAMME CONDUCTED
KwaZulu-Natal	Amajuba	Madadeni	YWCA Special School	Assault and Bullying	Not conducted due to Covid-19
KwaZulu-Natal	Ethekwini Outer South	Umlazi	Mason Lincoln Special School	Fighting, Drug Abuse	Not conducted due to Covid-19
KwaZulu-Natal	Ethekwini Inner & Outer west	Inchanga	Ethembeni Disable School	Gender Violence and Drugs	Not conducted due to Covid-19
Limpopo	Mankweng	Botlokwa	Lsen Disable School	Bullying and Drugs	Not conducted due to Covid-19
Limpopo	Modimolle	Modimolle	Susan Strjdom Special School	Bullying and Gangsterism	Not conducted due to Covid-19
Mpumalanga	Gert Sibande	Bethal	Jim Van Tonder Special School	Bullying and Drug Abuse	Not conducted due to Covid-19
Western Cape	Khayelisha	Khayelisha	Noluthando School for the Deaf	Substance Abuse	2020/10/03 Substance Abuse/Dagga

Targeted schools for intervention per annum: 1300



4. FEEDBACK ON SHELTERS

- No recommendation was made for the South African Police Service regarding this matter.



THANK YOU

