



Submission to the Portfolio Committee on Police:
Criminal Law (Forensic Procedures) Amendment Bill, 2022

For further queries and for oral submissions:

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Introduction

The Rape Crisis Cape Town Trust has been providing support to survivors of rape and other forms of sexual violence since 1976. The organisation provides direct counselling services to over 8000 survivors and their families each year. We also provide services in three forensic units and five regional courts and therefore have extensive experience in dealing with issues of sexual violence and the criminal justice system.

The submissions and recommendations below are general in nature, and we also take this opportunity to avail ourselves for oral submissions, should the occasion arise.

Purpose of the Bill

The main purpose of this bill is to require convicted prisoners to contribute DNA to the national DNA database maintained by the South African Police. This is to assist with conduct forensic investigations of unsolved crimes, and the detection of perpetrators.

The possible detection of unsolved crimes in this way could result in successful prosecutions and the conviction of offenders, and particularly repeat offenders. However, our concerns will highlight how this Bill will very likely achieve the opposite.

Concerns with the Bill

It is a well-known fact that there is already a severe backlog in the processing of DNA samples. The additional collection of the samples envisioned in this Bill will contribute to the backlog and will further slow down prosecutions that are currently proceeding before the courts.

Considering that a very small portion of sexual offences reach the prosecution stage due to attrition¹, this will mean that even less survivors of sexual violence receive justice.

The backlog in processing DNA samples is currently already hampering the conclusion of sexual offence matters before the courts. News24 reported that the backlog of sexual offence cases in the court system is currently at over 80 percent of sexual offence cases, compared to 52 percent in March 2021.²

Secondly, the estimated cost of implementing this Bill is R78 million. It is not clear if this figure even encompasses all of the associated costs. This is unjustifiable in context of the great need for budget to fight and respond to gender-based violence and femicide (GBVF) and this Bill only make justice more unattainable for survivors by adding to the DNA backlog. In addition, if the state is incapable of processing these samples, it will result in wasteful expenditure which could have been better spent on rehabilitation or other priorities.

Recommendations and Conclusion

From the above it is clear that the South African Police Service (SAPS) does not currently have the capacity to process the DNA samples currently before it. By passing this Bill, the backlog will increase, hampering the conclusion of current cases before court, which is likely to amount to wasteful expenditure if the state does not have the capacity to process these.

We therefore recommend that the consideration of this Bill be suspended until the Portfolio Committee has received evidence proving that the SAPS has the capacity and willingness to

¹ Mercilene Machisa, Ruxana Jina, Gerard Labuschagne, Lisa Vetten, Lizle Loots, Sheena Swemmer, Bonita Meyersfeld, Rachel Jewkes. (2017). Rape Justice In South Africa: A Retrospective Study Of The Investigation, Prosecution And Adjudication Of Reported Rape Cases From 2012. Pretoria, South Africa. Gender and Health Research Unit, South African Medical Research Council.

² Compiled by Nompilo Kunene, 'Shocking Figures Reveal Sexual Offences Court Backlog Now at over 80%', *Witness* <<https://www.news24.com/witness/news/kzn/shocking-figures-reveal-sexual-offences-court-backlog-now-at-over-80-20220308>> [accessed 11 March 2022].

process the DNA samples in current cases, and that the number of outstanding DNA samples does not exceed the average number usually taken in during one month. This is a matter of absolute urgency and should take absolute priority over the passage of any legislation.
