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**MINISTRY: JUSTICE AND CORRECTIONAL SERVICES**

**REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO:2440**

**DATE OF QUESTION : 26 AUGUST 2022**

**DATE OF SUBMISSION: 09 SEPTEMBER 2022**

**Ms N V Mente (EFF) to ask the Minister of Justice and Correctional Services:**

Whether, he has noted the report by the Committee on the Elimination of Discrimination against Women released in May 2021, which indicated that the Government’s inability to successfully prosecute perpetrators of violent crimes against women is a violation of women’s rights in this country; if not, what is the position in this regard; if so, what interventions and/or measures has he taken to ensure that the capacity to prosecute these crimes is improved?

**NW2838E**

**REPLY:**

It must be noted that the National Prosecuting Authority (NPA) Sexual Offenses and Community Affairs (SOCA) Unit participated in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) feedback country report session on 5 November 2021 on a virtual platform. Comprehensive inputs were submitted to the NPA at the session.

As reflected at the session, the Covid-19 pandemic had a negative impact on the performance of courts due to the unavailability of officials and witnesses because of various reasons related to the different levels of lockdown.

Irrespective of the aforementioned, a number of interventions and measures were implemented by the NPA as follows:

1. The **Thuthuzela Care Centres (TCCs)** have expanded from only focusing on services to victims of sexual offences to welcoming victims of gender-based violence, more particularly, domestic violence. Staff have been adequately sensitised and no victim of gender-based violence is turned away. The TCCs have become a supportive environment for women to report incidents of domestic violence. At one of our centres in Worcester, Western Cape, a domestic violence protocol has been put in place to increase the identification of domestic violence victims who enter the health facility, increase the number of victims able to access victim support services through referral to the TCC (including referral to a shelter) as well as empower the victim for their protection, i.e. by assisting them in applying for the protection order and facilitating the issuing of the order in court. The NPA, with the Department of Health, plans to roll out the domestic violence protocol to all its TCCs and the relevant hospitals. The Domestic Violence protocol when implemented nationally, will ensure a focused attempt to identify all domestic violence victims as they enter the trauma section of the hospital and through an immediate victim-centric approach reduce the chances of further harm. This approach will ensure the de-stigmatisation of the victim, dismantle commonly held victim-blaming beliefs, reduce judicial bias and gender stereotypes, and protect women complainants from retaliation by perpetrators.

Currently, there are sixty-one (61) TCC sites nationally, providing services to victims and the NPA is planning to roll-out an additional 9 sites towards March 2024.

1. The NPA has also embarked on an **efficacy review of all the TCC sites** to ensure that the standards of service offered at the sites are consistent. Where certain services are lacking, steps have been taken to address this. The efficacy review includes a focus on enhancing the accessibility to services for disabled victims.
2. The NPA has, with reference to the latest list of thirty (30) gender-based violence (GBV) hotspots, analysed such list and can confirm that all of these sites are covered by providing services from the TCCs to victims, excluding Diepsloot, but interventions are ongoing to address the position.
3. The number of **matters reported at the TCCs** during this financial year, increased by 16.4% overall from the previous financial year (2020/21). This reflects a total number of 34 456 matters reported, which is an increase of 4862 matters from the previous financial year.
4. For the past five (5) years, the current TCC sites delivered services to 168 049 victims at the sites, whilst 88% of these matters on average were specifically on sexual offences. Furthermore, 57% of these matters are specifically with children as victims.
5. Regarding TCC reported matters that were prosecuted, an **average conviction rate** of 76.7% for this financial year was achieved. This is 6.7% above the NPA Annual Performance Plan (APP) target. It is also the 7th year that we have consecutively achieved a conviction rate of above 70%. The current conviction rate reflects 1 033 convictions from the 1 346 verdict cases finalised. In the said financial year, the number of matters finalised with a verdict increased from 993 in the previous financial to 1 346, hence an improvement of 35.5%. The current TCC conviction percentage is also 2.9% above that of the national conviction rate for all sexual offences which stood at 73.8%. Furthermore, when placed in perspective, for the 2011/12 financial year the conviction rate for TCC cases was 60.7%, therefore a considerable improvement of 16% over a period of 10 years regarding the conviction rate of TCC-reported cases as compared with the said financial year of 2011/12.
6. The table below provides a **breakdown of all sexual offence cases nationally prosecuted** (including the TCC cases) and finalised with a verdict for the past nine years:

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Financial years** | **2014/15** | **2015/16** | **2016/17** | **2017/18** | **2018/19** | **2019/2020** | **2020/2021** | **2021/2022** |
| Conviction % | 69% | 70.1% | 71.7% | 72.7% | 74.4% | 75.2% | 75.8% | **73.8%** |
| Actual convictions | 5 084 | 4 978 | 4 780 | 5 004 | 4 724 | 4 098 | 2 539 | **3 161** |
| Finalized cases | 7 372 | 7 098 | 6 669 | 6 879 | 6 353 | 5 451 | 3 349 | **4 285** |

1. In evaluating the prosecution of sexual offences, it is to be noted, that for the **seventh consecutive year a national conviction rate of above 70% was achieved** (both in relation to all sexual offence prosecutions and in relation to the TCC-reported cases).
2. The management and prosecution of GBV matters is a priority focus in all DPP divisions, which is aligned to the **NSP on GBVF** and most importantly the NPS BU APP. It is also a standing priority item at all provincial and national stakeholder related meetings and forums. This is to ensure a collective and standardised approach in response mechanisms as the CJS towards GBVF.
3. In relation to **sentences imposed by the courts for TCC verdict cases** during the 2021/22 financial year, the following is to be noted:

* Life imprisonment sentences: 201 (an increase of 60 (42.5%) versus the previous financial year).
* 20-25 years imprisonment sentences: 106 (an increase of 21 (24.7%) versus the previous financial year).
* 10-19 years imprisonment sentences: 378 (an increase of 83 (28.1%) versus the previous financial year).
* Furthermore, it confirms that the courts are generally imposing more severe sentences specifically on rape offences regarding TCC verdict cases, in comparison with the financial years prior to the NSP on GBVF (2018).
* In addition, it reflects that the courts specifically imposed life imprisonment sentences in 19.5% of the 1 033 verdict cases. It also indicates that the courts imposed long-term sentences (including life imprisonment) in 66.3% of the verdict cases.

1. In line with Pillar 3, the NPA, to give effect to a **victim-centric approach** has ensured through its Ke Bona Lesedi **Court Preparation Component** that victims are adequately informed of their rights and that the judicial process is understood. This component is responsible for specialised prosecutor-guided court preparation for state witnesses provided by court preparation officers. They also ensure the provision of victim impact statements and the provision of specialised training across the CJS. The use of court preparation officers by the NPA to prepare witnesses for the court is an initiative aimed at empowering witnesses and victims and reducing secondary trauma. In the 2021/2022 reporting period, 97 176 witnesses were assisted by the court preparation officers. Of these 46 805 (48.2%) witnesses are specifically in relation to sexual offence matters.
2. NPA SOCA Unit, facilitated or participated in several **public awareness and community projects/campaigns** on gender-based violence, human trafficking and relevant legislation by the TCC personnel and SOCA provincial officials nationally in line with the “365 National Action Plan of no violence against women and children”. The TCC participation in campaigns focussed *inter alia* on the following topics:

* the essence of gender-based violence and early disclosure/reporting of sexual and or physical abuse offences;
* TCC services and the model;
* the influence of drugs and alcohol at schools (substance abuse);
* child pornography and related cybercrime;
* LGBQTI-cases;
* the importance of forensic medical examinations and post-trauma consequences of GBV;
* Ukuthwala-practises;
* the existence of sexual harassment and what it entails;
* the presence and occurrence of bullying at schools and the possible subsequent consequences thereof on the victims; and
* the manifestation of human trafficking specifically for sexual exploitation of victims (children) and also child labour, etc.

NPA officials also participated in several **dialogue sessions** specifically at schools, community events or community radio stations and NSP webinars on related topics. It must be noted that comprehensive reports from the various cluster or provincial managers are available detailing the content and extent of the various campaigns delivered or participated in by SOCA officials.

1. In relation to **training** for prosecutors and related stakeholders, the SOCA Unit developed, reviewed, and amended the relevant training material regarding our GBV mandate and facilitated seventy (70) training sessions nationally in the past 2021/22 financial year.
2. The **NPA SOCA Unit commenced in a collaboration with SAPS FSL**, a process to speed up the finalisation of **DNA analysis reports** urgently required at courts re GBV cases. The delay in the submission of these reports by FSL had a negative impact on the backlog of sexual offence cases. Such process was initiated in October 2020 to address the backlog of specifically sexual offence cases at courts due to the outstanding DNA reports from FSL. This resulted in the submission of 14 022 FSL reports (as at August 2022) received and submitted to the DPPs. This is a considerable increase in the number of reports received from the end of March 2021, when the number was only 444 reports. In addition, the SOCA Unit with the assistance of the NPA Research Unit, identified a number of 1 016 potential serial rapist reports as from October 2021. Some of these reports reflect the modus operandi of potential serial rapists whose activities straddle different divisions which then might require centralisation of cases (in line with the CPA) by the respective DPP divisions. This initiative resulted in a decrease in the backlog of long outstanding sexual offence cases at court. It is evident that our joint intervention between NPA and SAPS, regarding the prioritization of these DNA reports is indeed successful and will henceforth continue accordingly.
3. In relation to the **Community Prosecution Initiative implemented by the NPA**, designated community prosecutors monitor the progress and implementation of the Community Prosecution Initiatives at identified sites nationally. Currently, there are **twenty-three (23) initiatives, thirteen (13) of which focus specifically on GBV and one (1) initiative on Assault and Domestic Violence.** The aforementioned community prosecutors continuously facilitate several public awareness campaigns on related topics and various platforms, including radio and local newspapers, and/or delivered training sessions to relevant stakeholders on the Community Prosecution Initiative. Building stakeholder relations with relevant community partners are essential in this process, to collectively identify challenges and implementable solutions. The impact hereof will also be reported in the next annual report.
4. Following the enactment of the **three (3) GBV pieces of legislation, SOCA** established **GBV Legislation** **Task Teams** responsible for the execution of these Acts, by means of:

* Amendment of current charge sheet annexures/ drafting of new charge sheet annexures;
* Amendment of relevant NPA Policy Directives; and
* Amendment of all training material utilised by SOCA in the facilitation of training sessions. currently putting teams together, to review the relevant NPA Prosecution Policies which are affected by the signing into law of the **three (3) GBV pieces of legislation.**