**NATIONAL ASSEMBLY**

**QUESTION FOR WRITTEN REPLY**

**PARLIAMENTARY QUESTION NO: 500**

**DATE OF QUESTION: 20 MARCH 2020**

**DATE OF SUBMISSION: 03 APRIL 2020**

**Dr M M Gondwe (DA) to ask the Minister of Justice and Correctional Services:**

1. In light of the President’s Emergency Response Plan, what measures are being put in place by his department in order to capacitate and equip survivors of gender-based violence;
2. What number of (a) prosecutors, (b) magistrates, (c) court officials and (d) other law enforcement officials has his department provided with gender-sensitive training;
3. In addition to the establishment of special courts and the hiring of additional court officials, what other measures has his department put in place to clear the backlog of criminal cases for rape and other forms of gender-based violence;
4. What mechanisms has his department put in place to ensure that court officials who fail to (a) inform a complainant of his or her rights, (b) consider the complaint as soon as is reasonably possible and (c) serve an interim protection order and the original warrant of arrest on the complainant as stipulated by the Domestic Violence Act, Act 116 of 1998, are held accountable?

**NW684E**

**REPLY:**

1. (a) Government has adopted a multi-pronged approach in giving effect to the President’s Emergency Response Plan. Therefore, measures that are undertaken by the department are part of a comprehensive plan by various departments and Organs of State to empower and equip survivors of gender-based violence.
2. The Department developed a Risk Assessment Tool for victims of intimate partner violence. This Tool is intended to increase the reporting rate in domestic violence and most importantly, to encourage survivors to take legal action against perpetrators on domestic violence so as to avoid further domestic violence and potential intimate femicide. It is primarily intended to reduce the incidence of intimate femicide in the country by opening the eyes of a victim of domestic violence so that they are able to make an informed choice when deciding what recourse to take. Copies of the Risk Assessment Tool have been widely distributed at our courts for the benefit of victims of domestic violence when they come to court to report a matter. Training on the national codified instructions has been provided to domestic violence clerks. Specific focus on the risk assessment tool has also been provided within this training.
3. The Sexual Offences Courts play a critical role in empowering survivors of gender-based violence. Through these courts, sexual offences including rape are prioritised and these courts have maintained high conviction rates with harsh sentences as a deterrent to these heinous crimes.
4. From the side of the National Prosecuting Authority (NPA), the Thuthuzela Care Centres (TCC) remain an important vehicle to support and equip survivors of gender based violence. Through the TCCs the services of various departments including departments of Health and Social Development are able to provide integrated support services as the investigation, prosecution and trial of cases in which they are involved unfold. It is for this reason that the NPA has been allocated additional funds from, amongst others, the Criminal Asset Recovery Account (CARA) into which the proceeds of crime are deposited, to expand the TCCs from the current total number of 55 country-wide.
5. The Department continues to conduct awareness campaigns through, amongst other media platforms, the radio to provide public education; information sessions, and dialogues in communities, at which survivors participate. A number of radio stations participate in these programmes which have a wider coverage. According to the Broadcast Research Council of South Africa 82% of the population in South Africa, are radio listeners, therefore the Department was able to reach an estimated 32 million South Africans through the use of radio.
6. (a) The table below reflects the training provided by the National Prosecuting Authority to prosecutors until the end of 2018/19:

|  |  |  |
| --- | --- | --- |
| **Financial Year** | **No. of prosecutors trained (on Sexual Offences and Domestic Violence Legislation)** | **Number of law enforcement officials and others (SAPS, DSD, DoH, etc.)**  |
| 2013/14 | 212 | 564 |
| 2014/15 | 140 | 563 |
| 2015/16 | 265 | 711 |
| 2016/17 | 248 | 543 |
| 2017/18 | 153 | 469 |
| 2018/19 | 67 | 874 |
| **Total** | **1 085** | **3 724** |

1. The on-going skills developmentof prosecutors, is to ensure updated and related expertise amongst prosecutors. Comprehensive training manuals were researched and developed in line with the latest developments in law. In particular, the Sexual Offences and Community Affairs unit has developed specialised training manuals for prosecutors, on sexual offences (including social context training), domestic violence, maintenance, child justice and trafficking in persons. In addition, the unit developed an integrated stakeholder manual for those directly involved at TCCs and Court preparation officers.
2. Training has been conducted with domestic violence Clerks of Courts in four (4) provinces namely: Gauteng, KwaZulu-Natal, Mpumalanga and Northern Cape on the National Codified Instructions of Domestic Violence. It is envisaged that this will assist clerks to provide an effective service to complainants when they arrive at court for recourse on domestic violence matters.
3. The South African Judicial Education Institute provides (SAJEI) gender sensitivity training to newly appointed and serving judicial officers. The exact number of judicial officers trained in the previous financial year has been requested from SAJEI. The Office of the Chief Justice has informed the Department of Justice and Constitutional Development that a total number of 187 District Magistrates were provided with gender-sensitive training during the 2019/20 financial year. The training programmes focused on Domestic Violence, Protection from Harassment Act and Older Persons Act.
4. In the 2019/20 financial year the Justice College trained court officials as per the table below:

|  |  |
| --- | --- |
| **Programme** | **Court Officials** |
| Equality Courts Training | 34 |
| Protection from Harassment | 147 |
| Sexual Offences and Child Justice Acts | 36 |

1. (a) It is inevitable that the national state of disaster and subsequent national Lockdown declared by the President following the outbreak of the COVID 19 pandemic will lead to exponential increase in case backlogs across all the tiers of our court system. The Regional Court, which prior to the national lockdown experienced 6 801 cases, will be the most overburdened. The total Regional Court Cases currently, are 7 651, which is a difference of 850 cases.
2. Whilst under the Alert level 5 Lockdown courts dealt mainly with postponement and bail applications, during Alert Level 4 Lockdown sexual offences and domestic violence have been prioritised for trial.
3. The Directions’ lists published under Alert Level 4 list sexual offences and gender-based violence cases in the Annexure of Permitted Services.

In terms of the adopted plan, the Department collates all cases that were postponed in absentia during the national state of disaster and Lockdown and those which were not placed on the roll due to the lockdown. These cases are collated on a weekly basis and placed on a priority roll of each court. The existing structured case flow management meetings occur through the Provincial Efficiency Enhancement Committee (PEECs chaired by Judges President), Regional Efficiency Enhancement Committee (REECs chaired by the Regional Court Presidents) and the District Efficiency Enhancement Committees (DEECs chaired by the Chief Magistrates in the districts). It will be recommended that the PEECs, REECs and DEECs where all stakeholders are represented, including the organised legal profession, will manage these cases in their quarterly meetings.

1. The priority roll in every court will incorporate all cases which have been listed on the Annexure to the Directions as Permitted Services under Level 4 Lockdown. These cases include corruption, including corruption relating to COVID 19 procurement, gender-based violence, robbery and other serious offences listed in the Annexure.
2. Cases which are not placed on the priority roll will then be postponed for dates far away in the future.
3. Other mechanisms to resolve these cases, in particular civil cases, will be settled through Alternative Dispute Resolution (ADR) mechanisms. It is in this context that services of Judges discharged from active services and accredited mediators will be solicited. A protocol is being developed to enlist services of retired judges, and the office of the Solicitor-General is already inundated with requests for diversion of their disputes through ADR.
4. To enhance prioritization in the prosecution of sexual offence cases in all divisions, to support the following projects, were introduced:
5. **Sexual offence cases DNA backlog project.** This project is to focus on fast tracking outstanding court cases due to the unavailability of the DNA analysis reports, specifically those cases that involve children. This project is done in conjunction with SAPS FCS and the Forensic Science Laboratory (FSL) and implemented in phases, to ensure that the backlog of these cases is reduced.
6. **Sexual Offences cold cases project**. The national project was initiated to relook at sexual offences “cold cases” that are not on the court rolls. This is to re-evaluate the content, with prosecutor-guided investigations and stakeholder cooperation with SAPS, with a view to placing fully investigated and prosecutable cases back on the court rolls. The project will be implemented in phases.
7. (a) In respect of (a) and (b) it is important to note that court officials who fail to inform a complainant of his or her rights, or consider the complaint as soon as is reasonably possible, are dealt with in terms of the existing performance management system which provides for disciplinary actions against any official who is found guilty of dereliction of duty.
8. Interim protection orders and the original warrant of arrest relating thereto are served by police officers and there are regular structured meetings between the Department and SAPS management to address any glitches experienced in this regard.