



TSHWARANANG
LEGAL ADVOCACY CENTRE
TO END VIOLENCE AGAINST WOMEN

Will any police officer do?

The organisation of the South African Police Service's (SAPS) response to sexual offences

By Lisa Vetten

Three inter-linked challenges must be confronted by the police if survivors of sexual crimes are to be dealt with justly and fairly.

These are:

- **reducing the under-reporting of sexual offences;**
- **eradicating the prejudiced, discriminatory treatment meted out to such victims; and**
- **minimising the police's contribution to the attrition of cases through the criminal justice system.**

1. Introduction

One response to these challenges, favoured both internationally as well as in South Africa, has been the creation of specialised policing services, with the South African Police Service (SAPS) first establishing Child Protection Units (CPU) in 1986 and later expanding these to become Family Violence, Child Protection and Sexual Offence (FCS) Units in 1995. But in 2006 this specialised response suffered a setback when the FCS Units were effectively broken up by disgraced former national Commissioner of Police, Jackie Selebi – only to be restored to full functioning again in April 2011.

Thus, at a time when the SAPS' response to sexual violence is being rebuilt, this policy brief considers how other countries have organised their policing responses to such violence, as well as the strengths and weaknesses of their interventions; and then reviews the organisation of the SAPS' response to sexual offences. The brief then concludes with recommendations around how this response could be strengthened.

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2. Specialised policing responses to sexual violence internationally

Specialised police responses to sexual violence vary greatly both within and across countries and are obviously influenced by countries' particular legal systems and the roles such systems accord the police. But what most approaches have in common are either individuals or teams designated as specialists, who work from a police station, or are attached to some type of specialised facility (which may be a stand-alone structure or integrated into a police station). Thus in the case of the latter it is the facility or centre that organises the specialised response, while in the former it is the unit.

2.1. Women's police stations (WPS)

One of the best illustrations of how a facility or structure organises a specialised response is the women's police station (WPS) model which has emerged in a number of Latin American countries, as well as parts of India.

Brazil is credited with pioneering the concept of all-women police stations when, on 6 August 1985, the *Delegacia de Policia dos Direitos da Mulher* (or *delegacia*) was established in Sao Paulo to exclusively investigate crimes against women (Santos, 2004)¹. Privacy, separate entrances and all-women staff became characteristic of these WPS (Jubb and Izumino, 2003) which so captured public imagination that by 2004 some 339 *delegacias* were reported to be in existence throughout Brazil. Women flocked to the stations which, by 2000, recorded over 310 000 complaints alone. But this was not the only positive benefit of the WPS to women; they also provided new job opportunities in the police for women (Santos, 2004). With the subsequent spread of the model to Peru, Argentina, Costa Rica, Ecuador, Nicaragua, Colombia and Uruguay, the WPS has become a hallmark of Latin America's response to violence against women (Jubb and Izumino, 2003).

Implementation of the model, both in Brazil, as well as on the continent, differs in relation to the kinds of violence dealt with; the target population; the direct and indirect services provided; the involvement of other state and non-state agencies and their responsibilities for service provision and decision-making; and how they are funded (Jubb and Izumino 2003: 5). Adult women, children and adolescents are generally the target population for the stations. However, in some countries, only children are dealt with, while in others, only adult women are served by the stations. The stations are also more likely to address different forms of family, rather than sexual, violence. Some of the stations also only focus on civil, rather than criminal procedures, and so have no mandate to conduct investigations or arrest perpetrators.

The first All Women's Police Stations (AWPS) in India began functioning in the 1970s in the state of Tamil Nadu.

1. The creation of a police station specialising in the investigation of a particular category of crime was not unusual within the Brazilian context, there being an existing tradition of establishing police stations focusing on particular crimes (such as robbery, burglary, or theft of antiquities) (Santos, 2004).

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However, their expansion only really began in the 1990s and by 2009 it was reported that 195 stations operated in Tamil Nadu (Kethineni and Srinivasan, 2009). The remit of the AWPS is broad, encompassing domestic violence, dowry harassment, sexual harassment, adultery, issues related to the custody of children and spouses' alcoholism. The AWPS therefore do not confine themselves to criminal matters alone and also provide a Women Helpline devoted to responding to problems reported by women and children. The women police officers deal only with criminal offences and may resolve these through mediation and counselling, in addition to conducting investigations (*ibid*).

2.2. Specialist units

Units specialising in crimes against women and children are a feature of police services in a number of countries, including Namibia, Mauritius, Sierra Leone, Malaysia, the United Kingdom, Australia, New Zealand, Canada and the USA. As with the women's police stations, the form and nature of the work that these units undertake is diverse. Some investigate domestic violence alone, others child abuse, or sexual offences against adults only, or combinations of the three crimes. Some police units may also work separately from other agencies, while other units work jointly with social services. The organisation of such services may range from specialised individuals, through to specialised, dedicated units.

The UK provides a good illustration of how diverse the organization of sexual offences investigations can be. According to a 2006 joint review of the investigation and prosecution of rape cases conducted by Her Majesty's Crown Prosecution Service Inspectorate (HMCPPI) and HM Inspectorate of Constabulary (HMIC), five different structures may potentially deal with sexual offences: specialist officers from the uniform division termed the Specially Trained Officer (STO); detectives from the Criminal Investigation Department (CID); specialised units dedicated to sexual offences' investigations, known as the Sapphire Units; Major Investigation/Inquiry Teams (MIT); and Child Abuse Investigation Units. Although the latter largely investigated offences committed by family members, some also had specific responsibility for investigating all rape and serious sexual offences committed against children.

These different policing functions and structures can

also be described as existing on a continuum of ‘fragmented’ and ‘closed’, where ‘fragmented’ functioning refers to the splitting of reporting and investigation processes between different sections of the police, while ‘closed’ functioning applies to units or individuals who are responsible for all policing procedures (Humphreys, 1996). One study, categorising policing responses in the following three ways, compared the outcomes for cases of child sexual abuse in New South Wales, Australia:

- **Fragmented** – specialist police deployed to a unit only responsible for interviewing children. The case was then referred out of the unit for generalist detectives to complete the investigation;
- **Closed** – Specialist police interviewed children and carried out the full investigation in the specialist unit; and
- **Fragmented generalist** – specialist trained police were deployed within a generalist patrol. The specialist police interviewed the child and the matter was then referred for investigation by generalist detectives.

Significant differences in how the three structures responded to reported child sexual abuse were identified. The fragmented unit interviewed fewer children than the specialist unit and was also hampered in this task by a lack of facilities such as private interview rooms, easy access to police cars and laptop computers (enabling them to take statements in safe environments chosen by the child or their caretaker(s)). The specialist unit, by contrast, conducted all interviews possible, charged more suspects and also had none of their cases declared *nolle prosequi* (unlike the fragmented unit). ‘Closed’ units may therefore provide better outcomes to survivors of sexual crimes (Humphreys, 1996).

A different question was asked by US researchers around the co-involvement of the police and child protection services in cases of child maltreatment. The authors found that children’s allegations were more likely to be judged credible and families were also more likely to receive a range of services when the police were involved. On this basis they suggested that police involvement promotes child protection (Cross, Finkelhor and Ormrod, 2005).

Concluding discussion

While limited research has been undertaken to systematically evaluate the functioning and effectiveness of these specialised interventions, what does exist suggests that the WPS and specialised units have slightly different strengths but suffer similar problems.

The extensive use of the WPS and AWPS in Latin America and Tamil Nadu illustrates the value placed on them by women and children, suggesting that the central achievement of this model has been the access to the police it has created for women and children (Larrain, 1999; Hautzinger, 2002; Jubb and Izumino, 2003; Santos, 2004; Kethineni and Srinivasan, 2009). The WPS thus appear to provide one solution to the problem of under-reporting so strongly associated with sexual violence. However, very few cases of the cases dealt with by the WPS proceed to court (Jubb

The effectiveness of the WPS has also been hampered by staff shortages; inadequate infrastructure and under-funding; and a lack of social and psychological support, both for those policewomen who staff the stations, as well as those who use the WPS.

and Izumino, 2003). By contrast, specialised units appear to reduce some case attrition (although this would appear to depend on how the specialised service is structured) and improve the treatment of child victims of sexual violence.

The WPS have however, also experienced challenges. In many instances women police officers placed at the WPS received no training around gender-based violence, or child abuse, it simply being assumed that they would automatically understand and empathise with other women by virtue of their shared femaleness. This assumption has not been borne out in practice (Hautzinger, 2002; Jubb and Izumino, 2003; Santos, 2004). Indeed, some female police officers perceived working in the WPS to be a dead end in their careers (Santos, 2004).

The effectiveness of the WPS has also been hampered by staff shortages; inadequate infrastructure and under-funding; and a lack of social and psychological support, both for those policewomen who staff the stations, as well as those who use the WPS (Larrain, 1999; Santos, 2004; Hautzinger, 2002). Similar challenges have confronted specialised units. For instance, the functioning of the Namibian Women and Child Protection Units (WCPU) has been constrained by a lack of facilities such as private toilets and washing areas, emergency clothing or provisions for food and drink. Many WCPU staff had received no specialised training, which contributed to their ill-informed treatment of rape complainants in some instances. Finally, some of the WCPUs were not always working in close collaboration with other service providers (Legal Assistance Centre, 2006).

In Brazil it was reported that both women police officers and the WPS were discriminated against by policing departments generally, not all of which saw violence against women as ‘real’ police work (Santos, 2004). The work of units in the USA (Maguire, 2009), Scotland (Lloyd and Burman, 1996) Great Britain (Garrett, 2004) and the Australian state of New South Wales (Humphreys, 1996) has also been denigrated by their fellow officers as not ‘real’ police work.² In being dismissed as ‘social workers’ rather than police officers, the professional identity of such officers was eroded (Lloyd and Burman, 1996). An associ-

2. Some of the names given to these units by other police officers include the Cinderella department, the babysitters, the cardigan squad, the nappy squad, the fanny squad, the women and wains unit and diaper dicks.

In 1996, the first police station-based trauma facility addressing rape and domestic violence specifically was opened in Sunnyside, Pretoria – but closed within a year, its only two female detectives overwhelmed by repeated 24-hour shifts.

ated marginalisation of such units by police management has also been reported (Garrett, 2004). These particular stressors, in combination with under-resourcing, the nature of child abuse and a lack of debriefing, created a particular stress for these units (Lloyd and Burman, 1996). Recruitment to these units, as well as the motivation of their members, was therefore also a challenge.

3. Policing sexual offences in South Africa

Elements of a WPS-type response have been experimented within South Africa through the creation of spaces with in police stations where women and children can report crimes and be dealt with by women police officers. In 1996, for example, the first police station-based trauma facility addressing rape and domestic violence specifically was opened in Sunnyside, Pretoria – but closed within a year, its only two female detectives overwhelmed by repeated 24-hour shifts. At the same time another such facility dealing with rape, domestic violence and missing children was opened at Pretoria West station. Following its opening, the number of such cases being reported doubled (NCPS, undated). Over the years these early attempts at creating specialised police facilities for women and children have been transformed into victim empowerment centres (VEC) dealing with victims of crime generally (although the police often emphasise their use in relation to crimes against women and children). What has been the SAPS' primary response to sexual offences has been the specialised CPU and then FCS Units.

Until 2006 FCS Units were not based at individual police station but typically located in separate victim-friendly offices that served a number of police stations within a geographical area. Victims did not typically report directly to these offices but first went to their local police station after which a specialised detective would then be called out to assist them. In those localities where the distance between police stations was great, detectives who had undergone FCS training were based at local police stations instead. At the same time, many areas also had no access to FCS detectives, with the result that rape cases were investigated by general detectives. The SAPS' response to sexual crimes could thus be described as both generalist and fragmented in that specialisation was confined to the investigation of such incidents while ordinary members of the police's uniform division were responsible for processes associated with the initial reporting of these offences.

This uneven availability of specialised policing services was to become one of the reasons given for the redeployment of the FCS Units in 2006. Arguing that "Police officials and police units cannot operate in cocoons of expertise, only sharing their skills when available and time permits," then-National Commissioner of Police, Jackie Selebi, dispatched the Units from their centralised offices to individual police stations (Selebi, 22 May 2006). The consequences of this restructuring were highly adverse. While some areas which previously had no access to FCS services began receiving such services, this was at the expense of other areas, which lost such services, and in the context of a decline in the quality of services overall (Frank et al, 2009). Networks that had existed between FCS detectives and counselling services disintegrated, while detectives also lost access to the victim-friendly, private interviewing spaces they previously had access to. Rape investigations were now also being allocated to general detectives and not only FCS detectives (Vetten, Riba and van Jaarsveld, 2009). Data collated between 2006 – 2007 for a study examining the attrition of reported rape cases in the province of Gauteng in 2003 (Vetten et al, 2008) suggests that this may well have affected the conviction rate for rape.

The attrition study included a question asking whether or not the case had been referred to a member of the FCS Unit for investigation. Of the 2 068 cases sampled, 278 (13.4%) had been handled by a general detective while 1 757 (84.7%) had been dealt with by a FCS detective. Thus some one in eight cases were not dealt with by a specialist detective.

Table 1 compares the performance of the general detectives with that of the FCS detectives against five possible case outcomes. FCS detectives out-performed general detectives on every dimension, making more arrests; having fewer cases withdrawn by either the courts or police; and having more of their cases go trial which were also more likely to result in a conviction. In fact, as the table shows,

Table 1: Comparison of performance

	General Detective n = 278	FCS Detective n = 1 757	P Value
% cases resulting in arrest	32.7%	52.4%	(p 0.000)
% cases withdrawn by police	60.9%	42.0%	(p 0.000)
% cases withdrawn by prosecutor	64.3%	49.0%	(p 0.014)
% cases referred to trial	7.9%	19.0%	(p 0.000)
% guilty findings	22.7%	36.5%	p > 0.192

FCS detectives out-performed general detectives on every dimension, making more arrests; having fewer cases withdrawn by either the courts or police; and having more of their cases go trial, which were also more likely to result in a conviction.

their matters were more than twice as likely to result in trials than those investigated by general detectives (19.0% vs 7.9%). With the exception of convictions, all other differences are statistically significant.

We then explored whether FCS detectives' superior performance could be explained by the fact that their cases differed in some significant way from those dealt with by the general detectives. Age seemed a logical variable to examine on two grounds. Firstly, in 2003 some of the Units in the province were still predominantly CPUs making the transition to FCS Units. They therefore dealt with far more cases involving children than those involving adults. Secondly, the attrition study revealed arrests and trials to have been more likely when the victim was a child rather than an adult (Vetten et al, 2008). This raised the possibility that FCS detectives' better performance might be associated with the fact that they were more likely than the general detectives to handle children's, rather than adults', matters. Table 2 bears this intuition out and shows when general detectives investigated rape cases, they were significantly more likely to deal with adults' cases than those of children ($p > 0.000$).

Table 2: Comparison of cases dealt with by FCS and general detectives, by age

	0 - 11 Years n = 510	12 - 17 Years n = 510	18+ Years n = 1 206
General Detective	7.0%	19.6%	73.4%
FCS Detective	15.1%	26.5%	58.4%

Given this significant difference, we then compared performance between the two groups in relation to adults only. Table 3 sets out the comparisons.

FCS detectives still outperformed general detectives on investigations relating to adults. These differences are significant for all but two dimensions of performance: the percentage of cases withdrawn by prosecutors and the percentage of cases resulting in a conviction (in common with the finding comparing performance on all cases). Again their cases were more than twice as likely as those of general detectives to go to trial (16.2% vs 7.0%). In conclusion, this analysis corroborates the international data

Table 3: Comparison of performance on adults' cases alone

	General Detective n = 278	FCS Detective n = 278	P Value
% cases resulting in arrest	31.2%	49.2%	(p 0.000)
% cases withdrawn by police	63.8%	47.1%	(p 0.000)
% cases withdrawn by prosecutor	63.6%	51.1%	(p 0.114)
% cases referred to trial	7.0%	16.2%	(p 0.001)
% guilty findings	21.4%	33.7%	p > 0.346

suggesting that investigations conducted by specialised police officers were associated with better case outcomes for rape survivors.

Both this data, as well as the international research, show that any police officer will not do when it comes to the reporting and investigation of sexual offences. Thus it was all to the good when in the face of sustained criticism by NGOs, political parties and members of the public, the Units were reintroduced across the country in 2010. By 2012, 2 155 FCS detectives had been placed at all 176 policing clusters in the country and a budget of R49.5 million shared between the provinces to ensure the adequate resourcing of the Units (Minister EN Mthethwa, 30 May 2012). Important as these steps are, they do not add up as yet to a comprehensive policing response to sexual crimes. The brief concludes with recommendations to address the missing components of this response.

4. Concluding recommendations

A national study found that only one in nine women reported being raped to the police (Jewkes and Abrahams, 2002), while a more recent Gauteng-specific study found only one in eleven women to have reported to the police (Machisa et al, 2011). This problem of extensive under-reporting is not solved by the creation of specialized units alone. Indeed the current policy of reducing the reporting of crimes like rape by 4–7% annually (SAPS Strategic Management, 2010), is very likely to exacerbate the problem of under-reporting. As it is, this target has introduced perverse incentives into the SAPS to dump dockets, or refuse to accept complaints (Vetten et al, 2010). This performance target needs to be rethought in relation to rape (and domestic violence) and measures introduced to encourage reporting.

Finally, while FCS detectives may have performed better than general detectives in managing sexual offences, room for improvement remains. This is particularly so after their restructuring, when many experienced FCS detectives left the Units in disillusionment.

While the establishment of separate police stations dedicated solely to crimes against women and children may be impractical in the South African context, this does not prevent the SAPS from thinking about how to create women and child-friendly spaces within police stations. Policy around the VECs needs to be created in this regard.

What has also not been addressed in the re-establishment of the Units is the distinction drawn between child and adult victims which operates to the detriment of adult victims (Vetten et al, 2008). This distinction has been entrenched by National Instruction 3/2008 which stipulates that only children's cases are to be investigated by the FCS Units – but is silent on who bears responsibility for the investigation of adults' matters. The National Instructions need to be amended to make the investigation of all sexual offences the responsibility of the FCS Units. This may require the SAPS to increase the number of detectives currently attached to the FCS Units.

The SAPS response to sexual offences remains fragmented, with members of the uniform division based in the Client Service Centre (CSC) still being responsible for initial reporting processes. Most have not been trained around the law applicable to sexual offences, or the proper treatment of victims (Vetten, et al, 2010), and their statement-taking skills are not particularly adequate (Vetten et al, 2008). To improve these, the SAPS could consider adapting the STO function utilized in the UK. Like their South African counterparts staffing the CSC, STOs are also part of the uniform division and do not investigate cases. Instead STOs are responsible for providing the initial response to a report of a serious sexual offence; arranging the victim's forensic medical examination; securing exhibits and samples from the victim; conducting the victim interview; briefing the Investigating Officer (IO) and other members of the investigation team; and taking statements of withdrawal of support for the prosecution (as directed by the IO) (HMCPSI & HMIC, 2007).

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