Sonke Gender Justice & SWEAT

Submission to the
Civilian Secretariat for Policing

Civil society consultation on the
White Paper for Safety & Security

11 December 2017
# Sex Work Sector Contribution

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<tr>
<th>Thematic Areas of White Paper</th>
<th>What is required from Government? Gaps/Omissions in current government responses?</th>
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<tr>
<td>7.1.1 Effective criminal justice system</td>
<td>Department of Justice &amp; Constitutional Development:</td>
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<td>Efficient, responsive and professional criminal justice sector</td>
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<tr>
<td>• Efficient, responsive and professional criminal justice sector.</td>
<td>▪ Law reform through the decriminalisation of sex work to recognise it as a legal form of employment, subject to the country’s labour laws.</td>
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<td>• Effective diversion, rehabilitation and re-integration programmes.</td>
<td>▪ Inclusion of Sex Workers as an identified vulnerable group in all national strategic planning activities of the Department, with dedicated activities and strategies to support the human rights of Sex Workers through the criminal justice system processes.</td>
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<td>• Effective restorative justice programmes and interventions.</td>
<td>▪ A national policy for the regulation of sex work which is rights based and recognises Sex Workers as a vulnerable group. The policy should include a comprehensive strategy supporting access to health services, psycho-social and other government services for Sex Workers. It requires effective implementation of the South African National Sex Worker HIV Plan 2016-2019 which can be found <a href="http://sanac.org.za/2016/03/29/south-african-national-sex-worker-hiv-plan-2016-2019/">here</a>.</td>
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<td>▪ The mandatory establishment of Policing Ombudsman roles across all provinces, funded through the Department, following the precedent set by the Western Cape Ombudsman service. A national Ombudsman’s Office to monitor and evaluate the performance of the provincial offices, with annual reporting obligations which record the number of complaints, type of complaints, and de-identified material showing timelines of complaints and general outcomes so the public can properly assess the performance of the complaints process.</td>
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<td>▪ A review of the SAPS complaint procedures and access points for complaints to design a more practical and accessible complaints process that is tracked at the Provincial level (through the Provincial Policing Ombudsman) and follows clear guidelines on timelines and reporting outcomes/progress. Monitoring and reporting annually on the number of complaints lodged, type of complaint (ie arrest, detention, police conduct etc), success rates for complaints, with an annual report published in an accessible format for the public.</td>
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<td>▪ An annual meeting between provincial stakeholders (which includes representatives of identified vulnerable groups) and the custodian of those consolidated complaints records to review the outcomes and prepare in partnership a provincial report to be submitted to the Parliamentary Police Portfolio Committee, which is published in an accessible format for the public.</td>
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- Clarify for the public how the various policing complaints procedures and mechanism connect eg Civilian Secretariat for Policing, IPID complaints, provincial mechanisms information sharing with national level complaints bodies etc. The establishment of a webpage listing all the avenues available to make complaints about police, policies and investigative procedures, timeframes for complaint handling etc.
- A community education campaign targeted at townships, regional and rural areas to advise the public on the role of the police, rights based policing, appropriate use of force during police operations, police complaints avenues, the role of the courts and courts and criminal justice system.
- Development of community education materials in print and online to educate the public about different aspects of the department’s portfolio including the criminal justice system.

South African Police Service:

- Design and implement a national Policing of Sex Work Framework which includes –
  - Recognising Sex Workers as a vulnerable group, paired with a formal strategy around rights compliant policing of vulnerable groups with specific strategies to combat the abuse of those vulnerabilities during operational policing activities.
  - Implement a National Policing Instruction on Policing of Sex Workers, Standard Operating Procedures which clearly outline evidence requirements for the arrest of Sex Workers, arrest and detention procedures and the mandatory provision to Sex Workers of information on how to make complaints against police.
  - Prohibits police from seizing condoms from Sex Workers as they do not constitute evidence of any crime. SAPS to note the importance of the condom use strategy included in the South African National Sex Worker HIV Plan 2016-2019\(^2\) and stop undermining the work of the Department of Health. The prevention strategy of Condom Use on page 24 of that report is to be supported by police who are educated on the importance of consistent condom use as noted in the report. Section 2.1 Prevention Strategy of the report notes “Increasing the available and use of male and female condoms, together with condom-compatible lubricant, remains a critical component of the health care package for sex workers”\(^3\)
- Disaggregation of arrest, detention and prosecution outcomes for Sex Workers from the crime statistics to enable proper tracking of the number of Sex Workers arrested, detained and compared with prosecution outcomes. The information to be monitored and evaluated, and published annually in a format accessible to the public.
- Targeted corruption interventions at hot spot locations based on public

Levels of torture and abuse of Sex Workers by South African Police Service personnel were documented in a recent Sonke Gender Justice report which can be found [here](http://www.genderjustice.org.za/publication/sex-worker-policing-human-rights-challenges/).  

- A national reporting line for police corruption, which is reported against annually.
- A national reporting line for sex trafficking which maintains a central national register and is responsible for reporting back to the person making the disclosure/report on the outcome of the police investigation.
- A case management process for police which empowers complainants, victims of crime and other interested parties to receive up to date and accurate reporting of progress in a scheduled fashion across specific police dockets, and includes a mandatory notification process of adjourned court dates and location of next court appearances to affected parties.

**National Prosecuting Authority:**

- The disaggregation of case statistics to enable identification of cases relating to Sex Work, tracking and monitoring through the criminal justice system. The information to be monitored and evaluated, and published annually in a format accessible to the public.

**Department of Home Affairs:**

- To ensure that people in immigration detention continue to receive appropriate supports and services including access to HIV/Aids retroviral medications whilst held in custody.

### 7.1.2 Early intervention to prevent crime and violence, and promote safety

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<th>Department of Health:</th>
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<td>A priority placement scheme for people from identified vulnerable groups to access these services.</td>
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<td>Dedicated facilities to support people from identified vulnerable groups to access crisis accommodation and emergency supports. For example, Sex Workers experiencing gender based violence are often refused access to refuges due to the criminalised status of their work.</td>
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<th>Department of Education</th>
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<td>Dedicated mandatory curriculum modules in schools addressing gender based violence, social inclusion and vulnerable populations.</td>
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### 7.1.3 Victim support

- Comprehensive framework promoting and upholding the rights of victims of crime and violence.
- Delivery of high quality services for victims of crime and violence.

**Department of Justice & Constitutional Development and other government departments:**

- Need to finalise Victim Services Bill.
- It should include a specialist complaints hotline at provincial level for vulnerable groups to report criminal incidents when the alleged offender is a police officer.
- It should include an automatic entitlement to psycho-social counselling through a central agency which has the flexibility to do telephone counselling and arrange face to face counselling if suitable local services can be sourced by the central agency. Designed counsellors to be trained/sensitised to the needs of vulnerable groups eg Sex Workers, to enable an appropriate service to be provided.
- Strict guidelines and procedures for the flow of information to victims through the criminal justice processes including police, NPA and other relevant staff. Mandatory notifications of adjournments, court outcomes, charge progress and outcomes.
- Ability for advocacy organisations to contribute to victim impact statements/assessments placed before the Courts where the victim was a member of a vulnerable group. For example, sex work advocacy organisations to have the ability to submit material relevant for victim impact assessment and sentencing procedures where the defendant’s victim has been identified as a Sex Worker.

### 7.1.4 Effective and integrated service delivery for safety, security and violence and crime prevention

- Access to essential crime and violence prevention and safety and security services.
- Professional and responsive service provision.

**South African Police Service**

- A national direction prohibiting the seizure of condoms from Sex Workers. (Currently police seize condoms distributed by health services to combat HIV/AIDS, as evidence of Sex Work. One government department is working against another.)
- Development of accountability measures at the Station Commander level for actions of the police based at that location. A rollout of directions on ethical and rights compliant policing contracts, which includes information on the definitions and practical examples of corruption, to be signed by each active police officer. Station Commanders to be held accountable for ensuring staff within their stations are aware of their obligations and conduct themselves in accordance with the law.
- Re-establish accountability at the Police Station level. The professionalization of the South African Police Service with refreshing of staff on a 2 year cycle of policing fundamentals procedures for lawful arrests, detention, case management and investigation protocols, policies and procedures, National Policing Instructions, Standard
Operating Procedures etc. Specialist trainers to be assigned across provinces on a permanent basis to deliver this training. If cost prohibitive, the retraining to occur with Station Commander level staff who will be held accountable for ensuring staff within their station are aware of and comply with these legal requirements.

- A Police Station complaints tracking system which is able to record and monitor complaints lodged against police officers down to the assigned Police Station level. Annual reporting of complaints lodged, type of complaints, outcomes achieved, which is reported on annually in a public format. This would assist in identifying hot spot locations for problematic policing conduct, and would allow complainants to feel confidence their complaint has physically been lodged and processes.

### 7.1.5 Safety through environmental design

- The integration of safety, crime and violence prevention principles into urban and rural planning and design that, promotes safety and facilitates feeling safe.

**Department of Local Government:**

- Review of municipal by-laws which impact adversely on poverty and vulnerable groups eg hawkers, Sex Workers, people who use drugs. These bylaws are often used to harass and intimidate vulnerable members of the community rather than serving any legitimate purpose.
- Introduction of Crime Prevention Through Environmental Design principles which encourage use of public spaces to increase natural surveillance eg infrastructure/incentives to encourage hawkers to operate at specific locations as a local surveillance mechanism with communication linkages to police and community safety authorities.

### 7.1.6 Active public and community participation

- Sustainable forums for co-ordinated and collaborative action on community safety.
- Public and community participation in the development, planning and implementation of crime and violence prevention programmes and interventions.
- Public and private partnerships to support safety, crime and violence prevention programmes and interventions.

**The Department of Justice and Constitutional Development**

- The inclusion of Sex Workers as an identified vulnerable group in all national and provincial community safety strategic planning activities.
- Formation of national and provincial level Vulnerable Group Committees which includes experts, academics and civil society representatives of vulnerable groups to advise the Department on issues affecting the safety and security needs of vulnerable groups.
- An education campaign explaining to people how they can get involved in crime prevention programmes and interventions.
- Small funding grants for Community Mobilisation Teams to be trained in community mobilisation, advocacy, local and provincial government roles etc. These core groups to train further community members so local communities understand the processes and standards required of government and can mobilise around local issues and engage with government effectively.
South African Police Service

- Automatic inclusion of vulnerable groups in community safety committee representation, through an individual or advocacy organisation representative.
- Government partnering with civil society through funding and resources to deliver interventions and community education campaigns.
- Forming partnerships with civil society to deliver pilot projects on identified safety and security issues experienced by vulnerable persons. Link these activities to effective research capabilities with civil society organisations such as the African Policing Civilian Oversight Forum, Institute for Security Studies and vulnerable person advocacy organisations.