

SAPS FAMILY VIOLENCE, CHILD PROTECTION AND SEXUAL OFFENCES UNITS

The Minister of Police has instructed that the Family Violence, Child Protection and Sexual Offences (FCS) to be re-established during his budget vote on 2010-05-06. These units will be located at Cluster level and directly accountable to the Provincial Head: Detective Service (SAPS work study investigation: 2010).

The role of the FCS Detectives is to ensure the effective prevention, investigation of FCS-related crimes; and to ensure excellence in service delivery to victims of family violence, crimes against children and sexual offences.

FCS related crimes can be divided in four (4) main groups, namely:

Sexual crimes;

Person directed crimes

Illegal removal of a person (Kidnapping, abduction, missing children less than twelve years)

Electronic media facilitated crime.

Role and Function of the FSW within SAPS

To understand the role and the responsibility of FSW and specifically the FSW in the SAPS, it is necessary to have an understanding of what a FSW is: Forensic Social Worker is defined in South Africa as "a specialized field of social work practice that is characterized by the social worker's primary function of providing expert testimony in a court of law" (Baker, 1995:140).

The function within the context of SA and specifically in the SAPS is to provide expert testimony or assessment that is based on the investigation of persons involved to courts of law or to legal authorities; to provide expert testimony that is not based on the investigation of persons involved to court of law.

The first function of the FSW is limited to criminal investigations and criminal courts. It basically entails the scientific investigation and assessment of an individual or individuals that are involved in a criminal case and the presentation of these assessments to a legal authority or to a court of law.

The aim of this function is not to prove or disprove guilt, but to assist the court to understand the psychosocial functioning of a specific victim or witness.

The second function is when a social worker fulfils the second function of FSW; his or her testimony is not based on the investigation of the individual that is not directly involved in the case at hand. It would rather take a form of opinion evidence and be aimed at enlightening the court with regard to the factors such as the nature of human behavior and social problems, such as the impact that a crime or other traumatic occurrence could have had on its victim.

One of the main criteria for referral is where the detective can make no progress as the child does not want to talk, give a statement or disclose the abuse. Here the FSW will only assist the investigating officer to obtain the statement.

INVESTIGATION MANDATE

FAMILY VIOLENCE	
Intra-familial crimes when the victim is 18 years of age and older:	Intra-familial refers to the “traditional family”, (gesin) mother, father and children (married or unmarried) and NOT to the extended family as defined in the Domestic Violence Act
Assault with the intention to do grievous bodily harm	
Attempted murder	
Domestic Violence Act, 1998 (Act No 116 of 1998) (Applicable crimes)	Non compliance to protection orders ONLY when it forms part of the Assault GBH or Attempted Murder cases which are investigated by this Unit

CHILD PROTECTION	
Crimes if the victim is a child, a person under the age of 18 years, on the date the crime is reported.	Crime committed against a person whilst she/he was under the age of 18 years
Rape	Common Law crime committed before 16 December 2007. If the crime was committed since 16 December 2007 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is Applicable
Incest	Common Law crime committed before 16 December 2007 If the crime was committed since 16 December 2007 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is Applicable
Indecent assault	Common Law crime committed before 16 December 2007 If the crime was committed since 16 December 2007 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is Applicable
Attempted murder	
Assault with the intention to do grievous bodily harm	“Assault GBH”
Assault Common (intra-familial)	Only the intra-familial cases
Kidnapping (“Menseroof”)	It is “the unlawfully and intentionally depriving a person of his freedom of movement and/or, if such person is a child, his custodians of their control over him”
Abduction (“Ontvoering”)	It is “the unlawfully and intentionally removing an unmarried minor from the control of his or her parent or guardian in order to enable someone to marry him or her or to have sexual intercourse with him/ her”
Domestic Violence Act, 1998 (Act No 116 of 1998) (Applicable crimes)	Only if the Unit is already dealing with original criminal case (Assault GBH, Attempt murder, etc)
Sexual Offences Act, 1957 (Act No 23 of 1957)	Where the child is the victim of a sexual offence

Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007)	Crimes committed since 16 December 2007. Where the child is a victim of a sexual offence, including trafficking for sexual purposes if it was not of an organized nature (organized - Organized Crime) If the crime was committed since 16 December 2007, Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is applicable
Children's Act, 2005 (Act no 38 of 2005)	
Films and Publication Act, 1996 (Act No 65 of 1996)	Crimes relating to Child Pornography
Missing Children	Only when the child is under the age of 12 years

SEXUAL OFFENCES

SEXUAL OFFENCES	
Crimes when the victim is 18 years of age and Older.	Victim is 18 years of age and older at the time of the report of the alleged offence
Rape	Crime committed before 16 December 2007. If the crime was committed since 16 December 2007 Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is applicable
Incest	Crime committed before 16 December 2007. If the crime was committed since 16 December 2007, Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is applicable
Indecent assault	Crime committed before 16 December 2007. If the crime was committed since 16 December 2007, Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is applicable
Sexual Offences Act, 1957 (Act No 23 of 1957)	Where the adult is a victim of a sexual offence
Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007)	Crimes committed since 16 December 2007. Where the adult is a victim of a sexual offence, including trafficking for sexual purposes if it was not of an organized nature (organized - Organized Crime). If the crime was committed since 16 December 2007, Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act no 32 of 2007) is applicable
Domestic Violence Act, 1998 (Act No 116 of 1998) (applicable crimes)	Only if the Unit is already dealing with the original criminal case (sexual offence)