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**Tel: 021 483 0669 • e-mail: [ombudsman@westerncape.gov.za](mailto:ombudsman@westerncape.gov.za)  
Website: [www.westerncape.gov.za/police-ombudsman](http://www.westerncape.gov.za/police-ombudsman)**

**OVERSTRAND INVESTIGATION: STANDING COMMITTEE  
17 OCTOBER 2019**

# BACKGROUND

- ❖ Mayor of the Overstrand municipality is complainant
- ❖ Relates to Gansbaai, Hermanus, Kleinmond and Stanford SAPS Police stations
- ❖ Stations are unable to perform their mandate in terms of Section 205(3) of the Constitution of South Africa (Act 108 of 1996)
- ❖ Specifically in relation to SAPS inability to effectively police:
  - Abalone poaching
  - Public Protests

# SCOPE

- To determine whether there is indeed a shortage of SAPS resources in the Overstrand area.
- Focuses on the impact which the unavailability of sufficient resources has on the efficiency of the SAPS in the Overstrand area to perform their Constitutional mandate.

# INVESTIGATIVE TECHNIQUES

- Notice for public comments published in the Provincial Government Gazette, with no. 8097. A total of 150 comments were received
- Comments were received from Station CPF chairpersons and accredited neighbourhood watch co-ordinators
- Public hearings, inviting comments, were conducted in Pearly Beach, Gansbaai, Eluxolweni (Pearly Beach), Masikane (Gansbaai), Stanford, Kleinmond, Mount Pleasant, Zwelihle, Hawston, Hermanus CBD and Betty's Bay. A total of 125 comments were received at these meetings
- The Provincial Commissioner of SAPS in the Western Cape submitted written comments on the investigation as stipulated in Section 5 of the Ombudsman Regulations
- Comments were received from the HOD's of the Provincial Departments of Community Safety and Environmental Affairs

# INVESTIGATIVE TECHNIQUES

- Interviews were conducted with:
  - The Secretary for the Police Service
  - The Chairperson of Operation Phakisa in the NATJOINTS
  - Officials from the National Office of the Department of Agriculture, Forestry and Fisheries
  - Various SAPS Commanders on different levels and with different responsibilities
  - The Chief Prosecutor for the area, as well as with the Control Prosecutor at Hermanus Magistrate's Court
- The National Integrated Strategy to Combat Wildlife Trafficking (NISCWT) approval process was studied.
- Relevant legislation was studied and analysed.
- An article by Professor Hennie van As on, "The link between marine living resources and organized crime", was studied.

# Findings:

## **SAPS resources in the Overstrand area**

# HUMAN RESOURCES AT STATIONS

The following table reflects the information of the human resources at the four stations and at the cluster:

GRANTED VS ACTUALS – END APRIL 2019				
COMPONENT	GRANTED	ACTUAL	DIFFERENCE	%
Gansbaai	73	59	-14	81%
Hermanus	162	142	-20	88%
Kleinmond	45	40	-5	89%
Stanford	37	33	-4	89%
Cluster Office	13	9	-4	69%

The stations are all below 90% of their granted figures

# HUMAN RESOURCES AT STATIONS

- The ratio of population per operational member equals the following:
  - **Gansbaai:** 258:1
  - **Hermanus:** 638:1
  - **Kleinmond:** 522:1
  - **Stanford:** 851:1
- The National Minister for Police, recently said the United Nations recommend a ratio of 220:1 police officers, whilst the ratio in South Africa is 383:1.
- Gansbaai and Kleinmond are both on the level of a Lieutenant Colonel. The granted figure for Kleinmond is however 28 members less
- The report from the Provincial Commissioner indicates that Stanford station has 33 members, whilst the Station Intelligence Profile (SIP) indicates 37 members.



# HUMAN RESOURCES AT SPECIALIZED UNITS

## HUMAN RESOURCES GRANTED VS ACTUALS – END APRIL 2019

SPECIALIZED UNITS	GRANTED	ACTUAL	DIFFERENCE	%
Overberg K9	18	18	0	100%
Overberg FCS	7	5	-2	71%
POPS Paarl	127	99	-28	78%

- The K9 (Dog unit) and FCS (Family, Child and Sexual Offences) Units are geographical located within the Overberg Cluster
- POPS Paarl is situated in Paarl but serves the Overstrand in terms of their mandate (Commander indicated a response time of at least 2 hours)
- The information in the above table indicates that both the FCS – and POPS unit are understaffed and are on less than 80% of their granted capacity

# VEHICLES AT STATIONS

The status of the vehicles at the four stations and the cluster office is depicted in the following table:

VEHICLES GRANTED VS ACTUALS – END APRIL 2019				
COMPONENT	GRANTED	ACTUAL	DIFFERENCE	%
Gansbaai	20	16	-4	80%
Hermanus	42	39	-3	93%
Kleinmond	15	12	-3	80%
Stanford	12	7	-5	58%
Cluster Office	2	6	4	300%

The stations are all below their ideal figures, with Stanford at a critical 58%.

# VEHICLES AT STATIONS

- Gansbaai and Kleinmond stations are both on the level of a Lieutenant Colonel. The granted figure for Kleinmond is however 5 vehicles less than that of Gansbaai.
- The information in the SIP for the stations differ from the information provided in the report by the Provincial Commissioner. Unfortunately, the Provincial Commissioner of SAPS did not respond to a request from the WCPO to clarify the difference. The following table depicts the difference:

COMPONENT	SIP	REPORT	DIFFERENCE
Gansbaai	15	16	1 less
Hermanus	32	39	7 less
Kleinmond	6	12	6 less
Stanford	4	7	3 less

# VEHICLES AT STATIONS

- The stations have a much bigger shortage in terms of vehicles, according to the SIP. An aspect that was constantly raised during community engagements.
- Kleinmond and Stanford have far less than 50% of their granted vehicle fleet to their disposal.
- The WCPO requested to interview the Provincial Head of SCM, Cluster Commander and Station Commanders to clarify the difference and to obtain the correct information. SAPS failed to adhere to the [directive](#).

# VEHICLES AT SPECIALIZED UNITS

- The following table reflects the status of the vehicles at the SAPS Specialized units operating in the Overstrand area:

VEHICLES GRANTED VS ACTUALS – END APRIL 2019				
SPECIALIZED UNITS	GRANTED	ACTUAL	DIFFERENCE	%
Overberg K9	9	8	-1	89%
Overberg FCS	3	3	0	100%
POPS Paarl	24	28	4	117%

- Although the actual number of vehicles at the Specialized units seem sufficient to serve the stations in the Overstrand area, POPS have old Nyalas which are more in the garage than outside. They also have only one water cannon to serve the entire Province

# ACCOMODATION NEEDS IN OVERSTRAND

- November 2019 marks 7 years since the building and facilities of the Hermanus Dog unit at Hawston was destroyed. SAPS Facility Management is apparently paying rent for containers [for administration offices of the dog unit] and kennel facilities at the Hermanus SPCA, at a total cost of R 300,000 per annum
- The Zwelihle satellite station was burnt down during the unrest in 2017 and has made policing in the area of Hermanus more difficult. The local community complained about having to travel far distances to report crime and endure long queues, resulting in possible under-reporting of crime. Commuters pay R16 to and from Hermanus CBD and Zwelihle
- The need for additional satellite police stations to be established in Pearly Beach/Eluxolweni, Hawston/Onrus/Sandbaai and Betty`s Bay/Hangklip/Pringle Bay. Commuters have to pay for instance R30 to and from Hermanus CBD and Hawston.

# ACCOMODATION NEEDS IN OVERSTRAND

- The communities complained during all the public hearings about the fact that Local Criminal Record Centre (LCRC) is stationed in Somerset West which impacts negatively on the response times for crimes scene investigations. The shortest distance is 141 kilometres and will take approximately an hour and a half of travelling.
- The WCPO requested to interview the Provincial Head of LCRC to establish the response time in the Overstrand. SAPS failed to adhere to the directive.
- The WCPO requested to interview the Provincial Head of SCM, Cluster Commander and Station Commanders to confirm the current status of the accommodation needs. SAPS failed to adhere to the directive.

**It was found that there is indeed a shortage of human and physical resources, in the Overstrand area.**

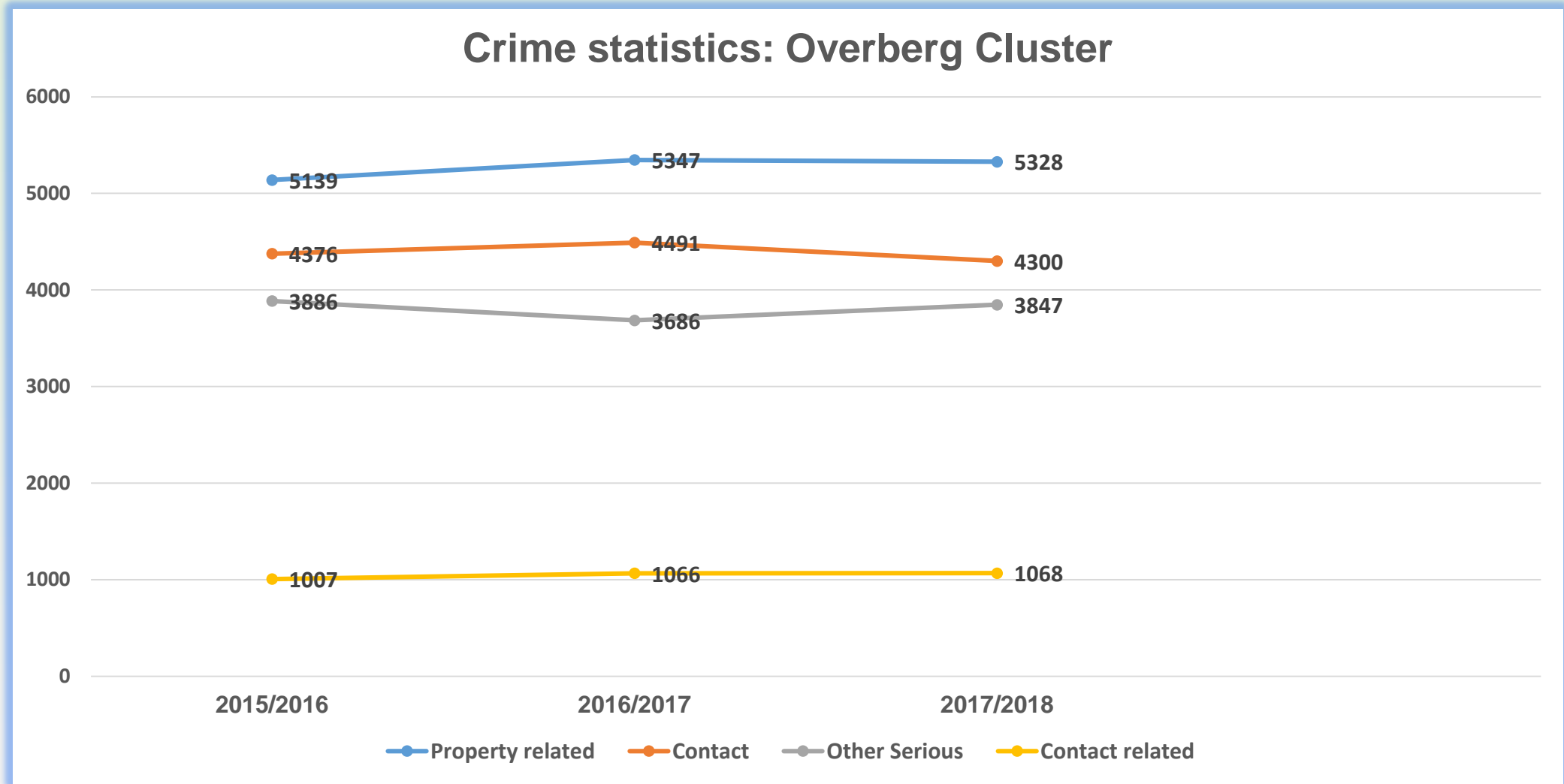
Findings:

**The ability of the SAPS in the  
Overstrand area to perform their  
Constitutional Mandate**

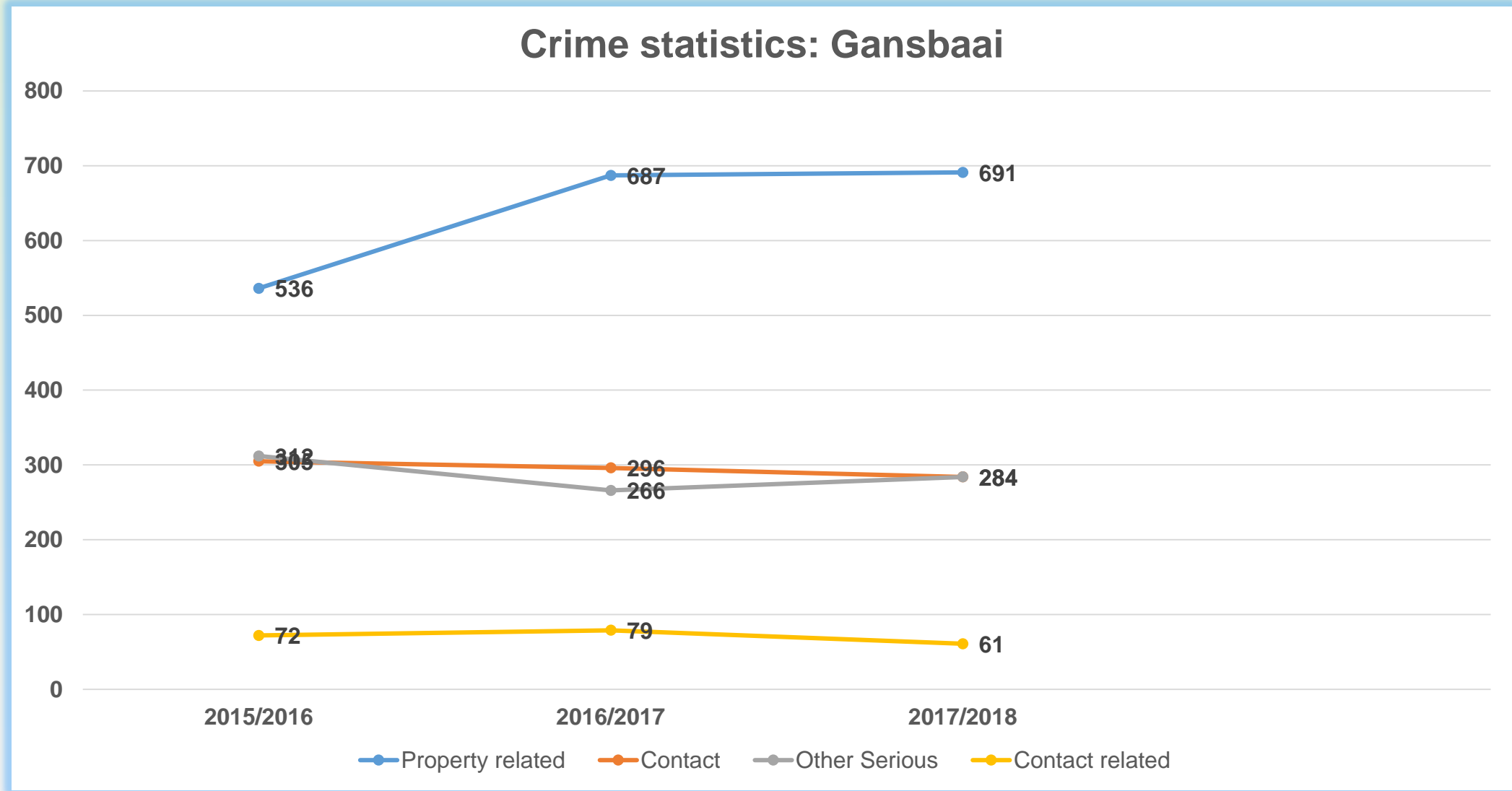


1<sup>st</sup> Constitutional mandate:  
**To prevent, combat  
and investigate crime**

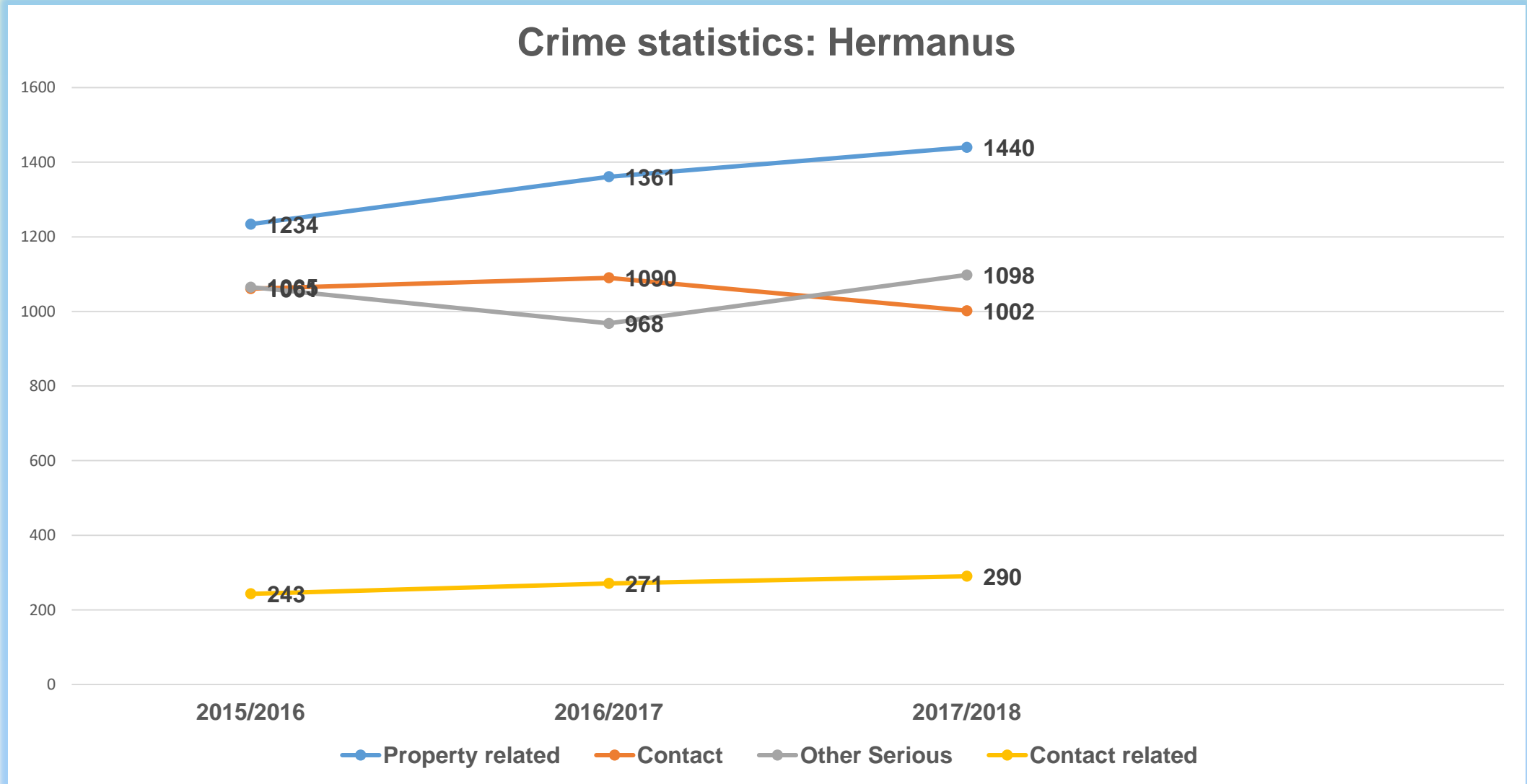
# ABILITY TO PREVENT OR COMBAT CRIME



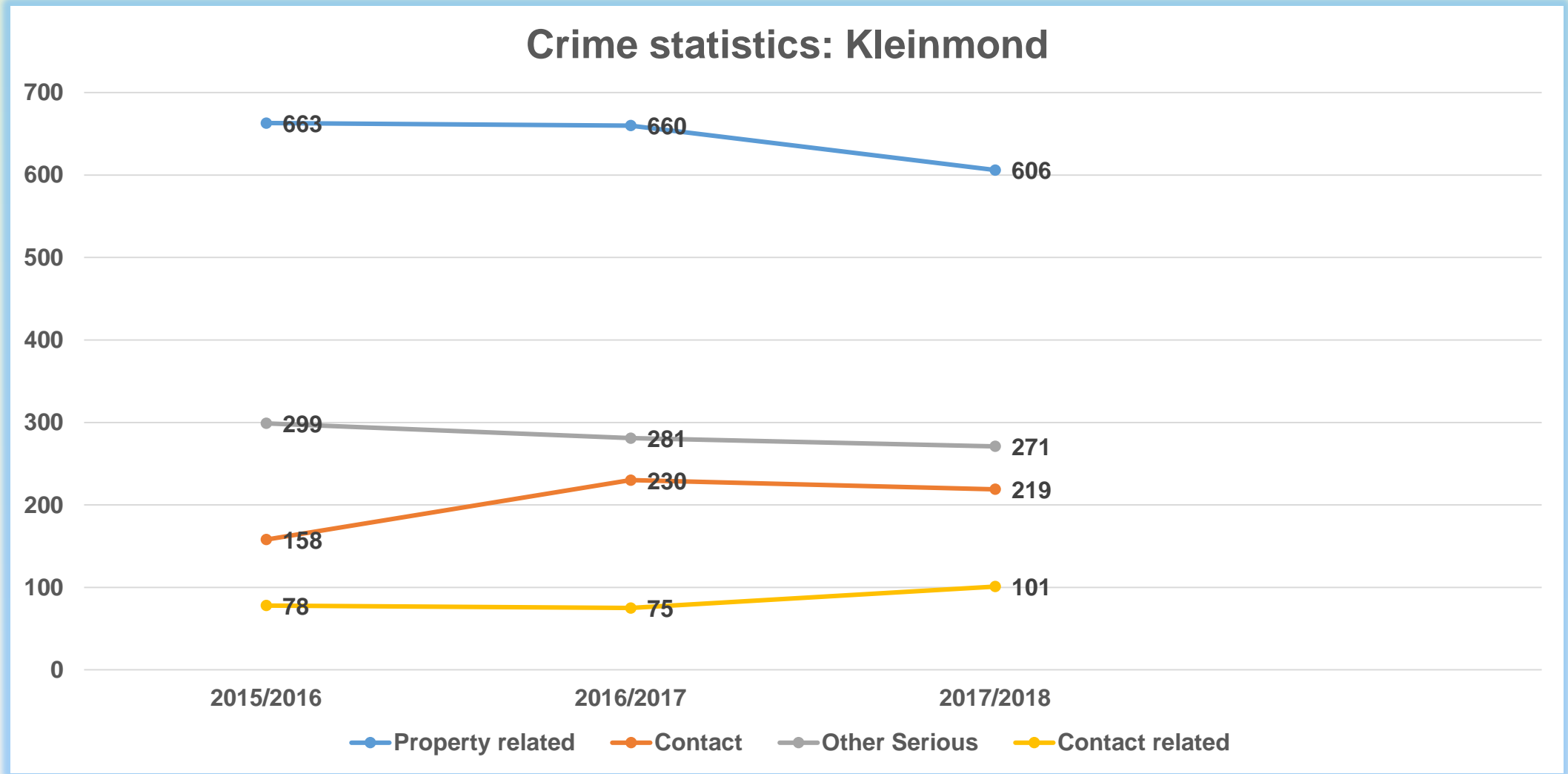
# ABILITY TO PREVENT OR COMBAT CRIME



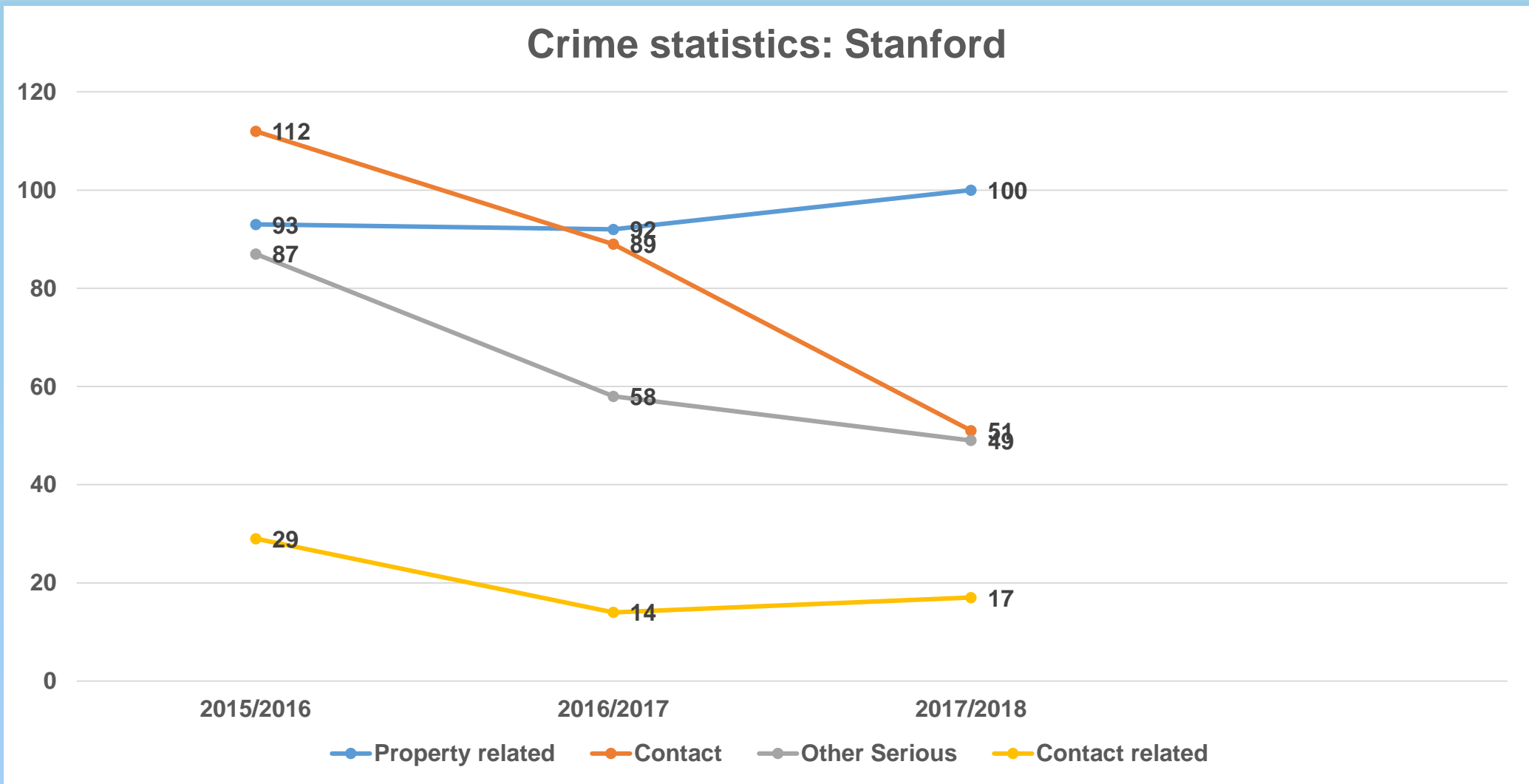
# ABILITY TO PREVENT OR COMBAT CRIME



# ABILITY TO PREVENT OR COMBAT CRIME



# ABILITY TO PREVENT OR COMBAT CRIME



# ABILITY TO PREVENT OR COMBAT CRIME

- Crime statistics indicate a stabilization in crime over the last three financial years.
- Data not reliable as communities have indicated that they do not report crime anymore due to the poor responsiveness of SAPS, and because they don't trust SAPS.

# ABILITY TO PREVENT OR COMBAT CRIME

## CONCERNS HIGHLIGHTED BY VARIOUS COMMUNITIES

- Poor response to complaints
  - Poor response to crime scenes
  - Poor response by LCRC for fingerprint investigations
  - Lack of law enforcement by SAPS
  - Abalone poaching and the link to organized crime
  - Inability to control and Police the harbors
  - Reluctance of SAPS to appoint community members as reservists
  - Zwelihle community has noticed a trend of vigilantism starting in the community.
- Road closures of the R43, R 44 and N2
  - Non-existence of sector policing
  - Lack of visibility and no crime prevention duties in Hawston
  - Hermanus SAPS are fearful of Hawston unless they accompanied by Public Order Policing (POP)
  - Zwelihle community raised the police brutality which they suffer during peaceful protests
  - Zwelihle community complained that cases which they report are never taken seriously

**The findings are an indication that SAPS does not have the ability to prevent or combat crime**



# ABILITY TO INVESTIGATE CRIME

- SAPS provided the statistics of cases to Court, Detection, Undetected, Withdrawn, Conviction, and Trial ready rate.
- It was comparatively reflected for the last three financial years as per the SAPS Efficiency Index System (EIS) for the Cluster and Overstrand stations.
- The data on the EIS is derived from the information reflected on the SAPS 6 per component for a specific period.
- The SAPS 6 is a management tool to measure the performance of detectives for a specific period.

# ABILITY TO INVESTIGATE CRIME

PERIOD FROM		201606		TO		201606		INDICATORS * (J/Y)		OR A		A/B OFFENCES/C=ALL			
SPECIAL EVENT	DETAIL NUMBER	*		OR	OFFENCE	CODE	*								
MONTH	1	2	3	4	5	6	7	8.1	8.2	8.3	8.4	8.5	8.6		
201606	224	183	129	12	85	0	181	739	37	0	112	19	700		
SCR TOT	224	N/A	129	12	85	0	N/A	N/A	37	0	112	19	N/A		
TOTAL	224	N/A	129	12	85	0	N/A	N/A	37	0	112	19	N/A		

NB - THESE FIGURES MUST NOT BE COMPARED TO OTHER SAP6 DATA

COUNT :

Column 1: Cases reported during a specific period  
 Column 2: Cases carried forward from a specific period  
 Column 3: Cases sent to court during a specific period  
 Column 4: Cases withdrawn during a specific period.  
 Column 5: Cases closed as undetected for a specific period.  
 Column 6: Cases closed as false for a specific period.  
 Column 7: Cases not completed and carried over to the next period.

Columns 1 – 7 reflect the progress in the investigation of cases before Court

Column 8.1: Total cases pending in Court at the beginning of a period.  
 Column 8.2: Total convictions for a specific period.  
 Column 8.3: Total not guilty verdicts for a specific period.  
 Column 8.4: Total cases withdrawn in Court for a specific period.  
 Column 8.5: Total cases settled by means of alternative dispute resolutions, warrants of arrests issued, etcetera.  
 Column 8.6: Total cases pending in Court at the end of a period

Columns 8.1 – 8.6 reflect the movement of cases in Court

# ABILITY TO INVESTIGATE CRIME

Performance was evaluated against the cases sent to Court, Detection, and Conviction rates; as well as the number of cases withdrawn before Court.

## Cases sent to Court:

$$\frac{\text{Column 3}}{\text{Column 1} + \text{Column 2}} \times \frac{100}{1}$$

## Detection rate:

$$\frac{\text{Column 3} + \text{Column 4} + \text{Column 6}}{\text{Column 1} + \text{Column 2}} \times \frac{100}{1}$$

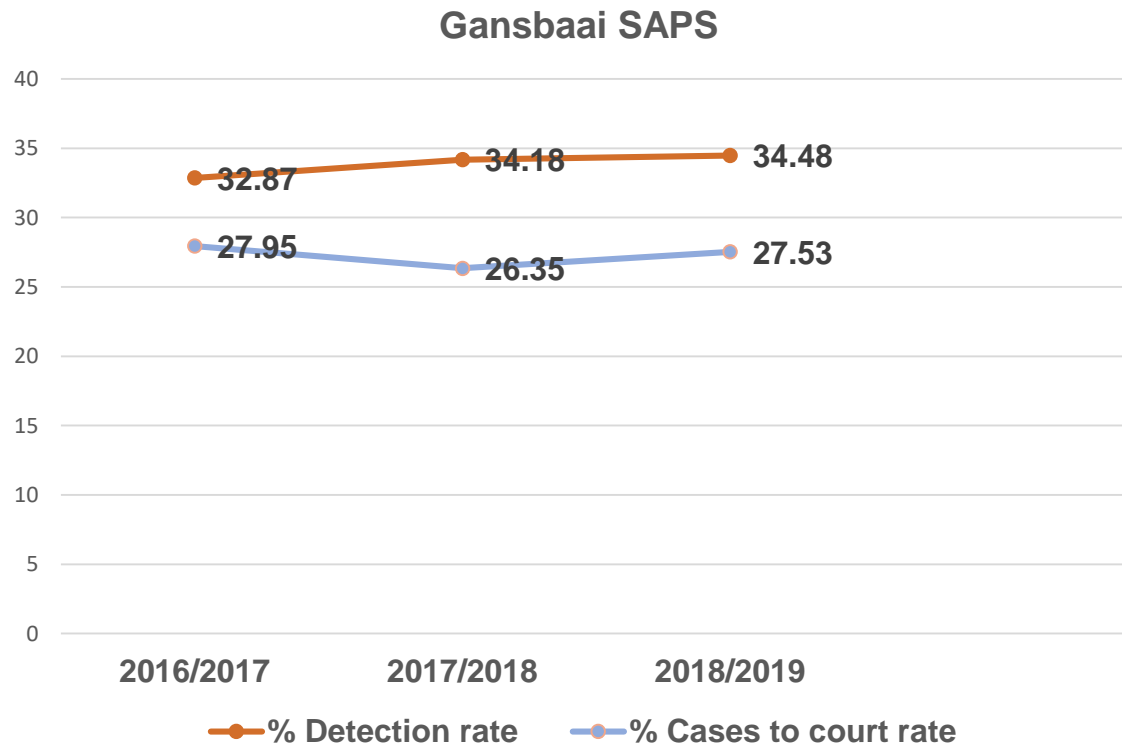
## Conviction rate:

$$\frac{\text{Column 8.2}}{\text{Column 8.2} + \text{Column 8.3}} \times \frac{100}{1}$$

Conviction rate is not a true reflection of performance as cases sent to Court, cases pending in Court and cases settled otherwise are not taken into consideration in the calculation

# ABILITY TO INVESTIGATE CRIME

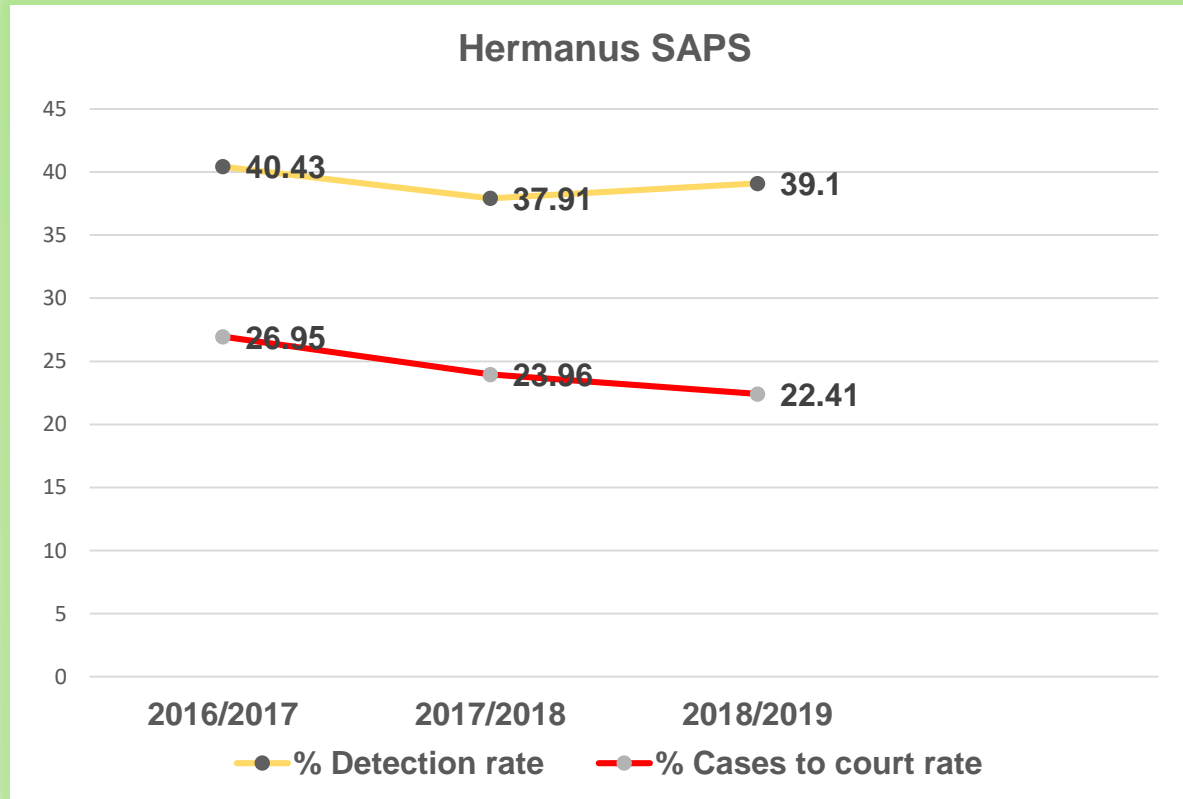
GANSBAAI			
Financial year	Cases to Court rate (%)	Detection rate (%)	No of cases withdrawn before Court
2016/2017	27.95	32.87	77
2017/2018	26.35	34.18	128
2018/2019	27.53	34.48	125



- Arrests were not affected in 72% of the cases reported to SAPS in Gansbaai during 2016/2017, deteriorating to 74% during 2017/2018 and again slightly improved to 72% in 2018/2019
- In more than 65% of the crimes reported to SAPS in Gansbaai, the crimes were not detected by the SAPS
- The number of cases withdrawn in Gansbaai increased with 48 cases, or with 62,3%

# ABILITY TO INVESTIGATE CRIME

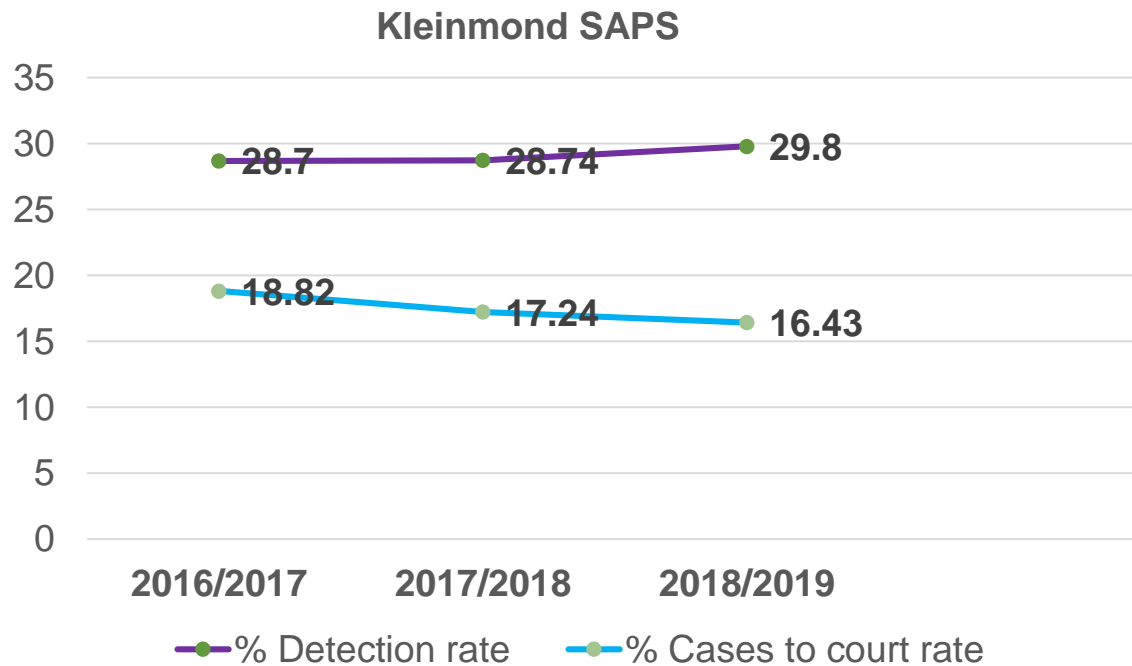
HERMANUS			
Financial year	Cases to Court rate (%)	Detection rate (%)	No of cases withdrawn before Court
2016/2017	26.95	40.43	544
2017/2018	23.96	37.91	590
2018/2019	22.41	39.1	705



- Arrests were not affected in 73% of the cases reported during 2016/2017, deteriorating to 76% during 2017/2018 and further deteriorated to 78% in 2018/2019.
- In more than 60% of the crimes reported, the crimes were not detected
- The number of cases withdrawn in Hermanus increased with 161 cases, or with 29,6%. Hermanus station contributes to half of the 323 cases withdrawn in the Cluster.

# ABILITY TO INVESTIGATE CRIME

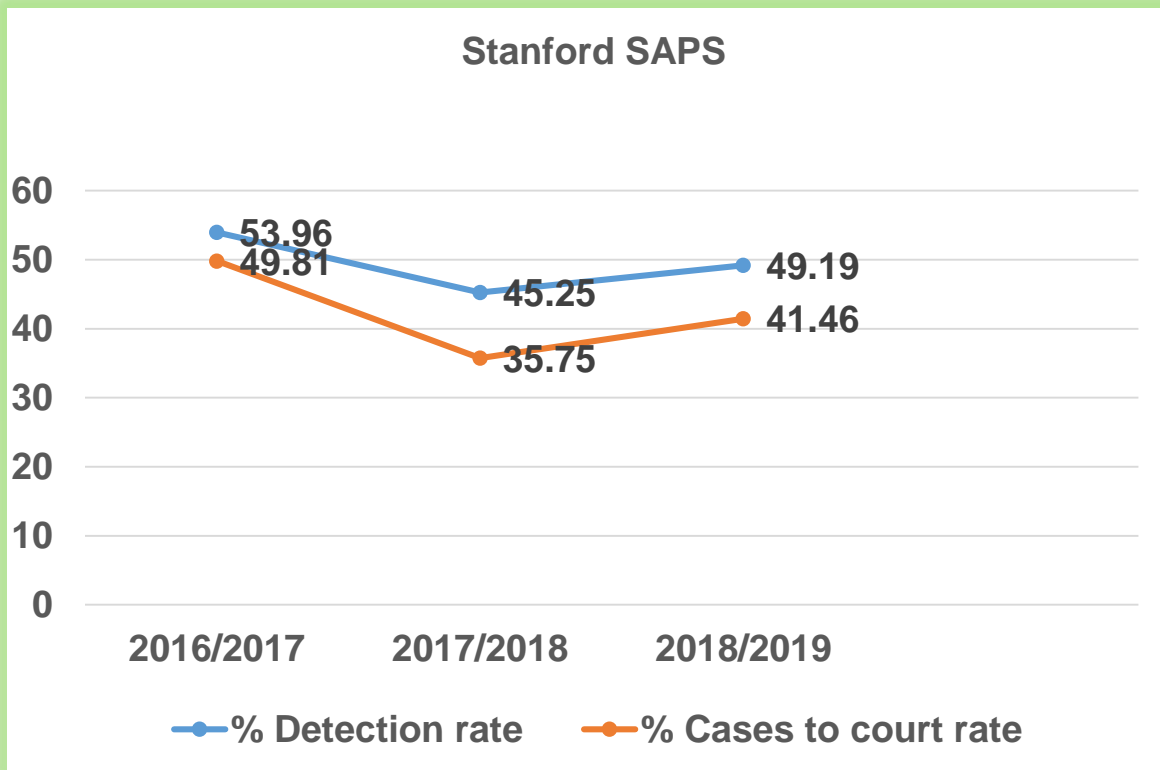
KLEINMOND			
Financial year	Cases to Court rate (%)	Detection rate (%)	No of cases withdrawn before Court
2016/2017	18.82	28.7	119
2017/2018	17.24	28.74	144
2018/2019	16.43	29.8	192



- Arrests were not affected in 81% of the cases reported during 2016/2017, deteriorating to 83% during 2017/2018 and further deteriorated to 84% in 2018/2019
- In more than 70% of the crimes reported, the crimes were not detected by the SAPS. The increase in the detection rate can mainly be contributed to the increase in the number of cases withdrawn before Court.
- The number of cases withdrawn in Kleinmond increased with 73 cases, or with an alarming 61,3%.

# ABILITY TO INVESTIGATE CRIME

STANFORD			
Financial year	Cases to Court rate (%)	Detection rate (%)	No of cases withdrawn before Court
2016/2017	49.81	53.96	11
2017/2018	35.75	45.25	27
2018/2019	41.46	49.19	22



- Arrests were not affected in 50% of the cases reported during 2016/2017, deteriorating to 64% during 2017/2018 and improved to 58% in 2018/2019.
- In more than 50% of the crimes reported, the crimes were not detected by the SAPS. The increase in the detection rate can mainly be contributed to the increase in the number of cases withdrawn before Court.
- The number of cases withdrawn increased with 11 cases, or by 100%.

# ABILITY TO INVESTIGATE CRIME

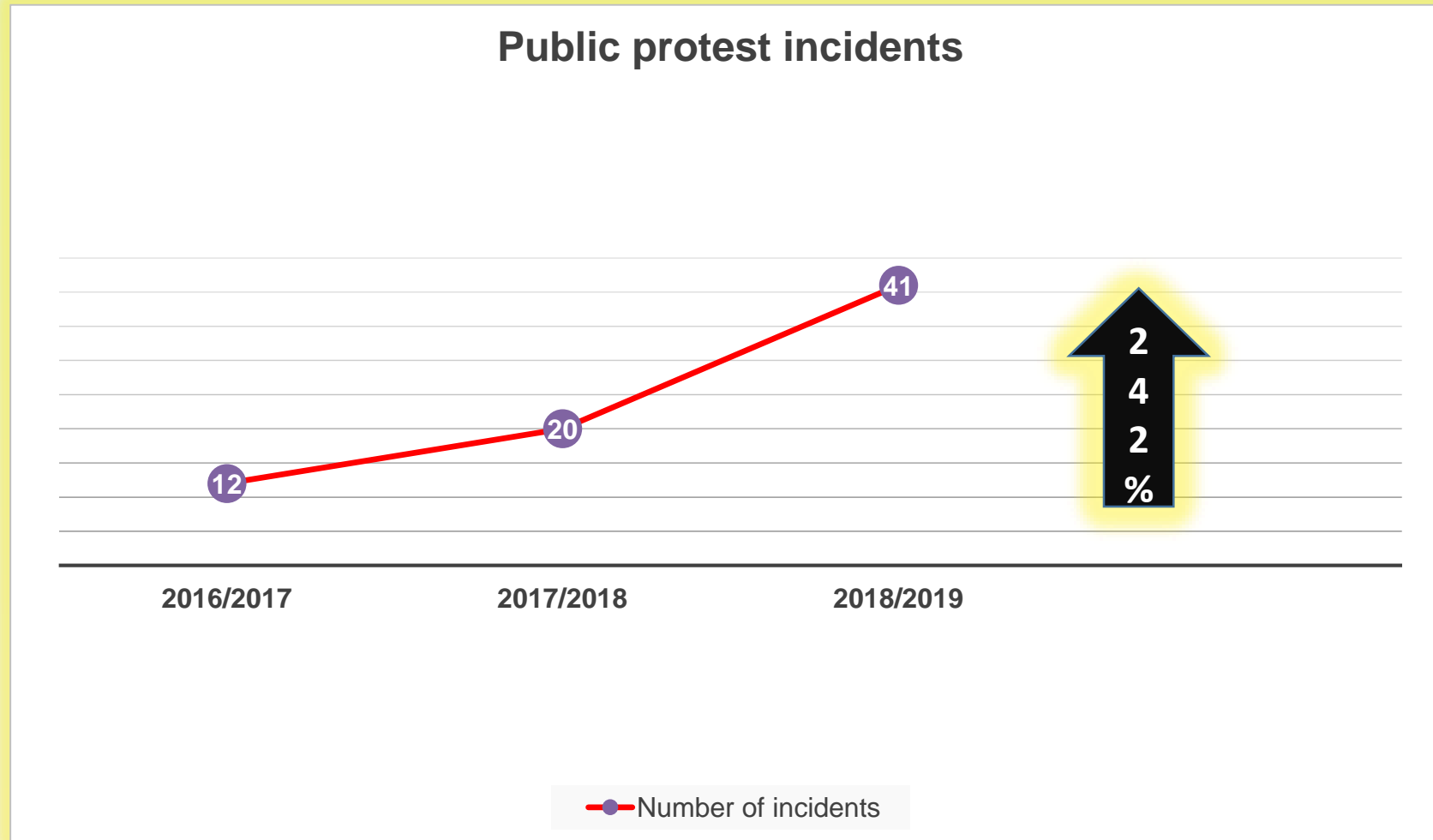
- The cases sent to Court and the detection rates at all the stations will be much lower if the arrests for crimes dependent on police action (drug arrests, firearm arrests, driving under the influence of liquor) are not included. **The crimes which are really affecting the communities thus remain unsolved.**
- The report by DOCS, and more specifically the report by the Court watching brief unit is an indication of ineffective investigations.
- The WCPO requested to interview the Provincial Head of the Detectives, Cluster Commander, Station Commanders and Detective Commanders to clarify certain aspects in relation to Detectives. SAPS failed to adhere to the directive.

**The findings are an indication that SAPS does not have the ability to effectively investigation crime**



2<sup>nd</sup> Constitutional mandate:  
To maintain public order

# ABILITY TO MAINTAIN PUBLIC ORDER



# ABILITY TO MAINTAIN PUBLIC ORDER

## COMMUNITY CONCERNS

- Poor response from local stations until POPS arrive – first responder training – NI 4/2014
- Police brutality during peaceful protests
- Failure by the SAPS to act against perpetrators committing illegal acts in their presence in full view of senior SAPS members
- Failure by the SAPS to arrest known inciters of public violence whose incitement to public violence has resulted in some R40 millions of damage to public property and resulted in an estimated R400 million loss to the Overstrand
- Failure by the SAPS to react to complaints from, and reports by, the public who have witnessed illegal acts of public violence, damage to public and private property, illegal blocking of public roads, stoning of vehicles, extortion, thuggery and intimidation being brazenly and maliciously perpetrated in numerous instances.

## SAPS CONCERNS

- POP units are utilized far beyond their mandate, their primary function of crowd management
- With the magnitude of public protests, they do not have sufficient resources
- Response time to Hermanus is 2 and a half, to 3 hours
- Need a POP unit in the Overberg area, as well as in Vredenburg, Saldanah as distance travelling is impacting on response to protests
- KZN and EC have 7 units, WC only have 3 units
- One of the emerging priorities which were identified in the AOP for the cluster for 2018/2019 is the **“Reaction time of POPS into Overberg Cluster.”**

# **ABILITY TO MAINTAIN PUBLIC ORDER**

**SAPS response on a request to provide a contingency plan in addressing public violence in the Overstrand area:**

**“Policing of public violence is prescribed in terms of National Instruction 4 of 2014: 'Public Order Police: Crowd Management during public gatherings and demonstrations'. The role of the local authority with regards to public violence cannot be over emphasized as most protest actions that lead to public violence emanate from service delivery complaints which is the responsibility of the local authority and or other Government Departments.”**

**The findings is an indication that the SAPS does not have the ability to effectively maintain public order in the Overstrand area**

## 3<sup>rd</sup> Constitutional mandate:

Ability to protect and secure the  
Inhabitants of the Republic (Overstrand)  
and their property and the ability to  
uphold and enforce the law

## Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

- The [Preamble](#) of the SAPS Act, Act 68 of 1995 as amended by the SAPS Amendment Act, Act 10 of 2012 clearly prescribes that the Police Service must ensure co-operation between the Service and the communities they serve in the combating of crime and reflect respect for victims of crime and an understanding of their needs.
- The contrary was found during the course of this investigation on Station, Cluster and Provincial level. As a matter of fact, there seem to be a total disconnect between the actual needs of the community and the perceived needs of the community as it is viewed by the SAPS on Station, Cluster and Provincial level.

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

## Station level: Gansbaai

### COMMUNITY NEEDS

- Abalone poaching is huge and what comes with this crime is scary. Young children are being bribed with high fashion clothes and drugs to become “runners” for the poachers. This causes children to drop out of school and families are torn apart due to children leaving home and are caught up in drug abuse.
- Beaches are becoming no longer safe to enjoy and high speed vehicles take to the beaches and our roads.
- Without the SAPS full manpower compliment, this is a huge task and a concern for the town. This level of crime should be rated on the top of the crime list as it is out of control.
- Gangsters are coming to live in Gansbaai and without SAPS manpower, they will become uncontrollable. We recently had fatal shootings.
- Not only is our concern about a shortage of SAPS members; another huge concern is the fact that liquor licences are issue very easily.
- The daily challenges of our SAPS members speaks volumes as at times there is only 1 (one) vehicle or at best 2 (two) vehicles in operation.

### SAPS RESPONSE: STATION AOP FOR 2018/2019

- Programme 2 include crime prevention and frontline service. The performance indicators listed are the reduction of contact crime, contact related crime, property related crime, other serious crimes, trio crimes and crimes against women and children. **No reference is made to the reduction of abalone/marine related crimes.**
- One of the objective statements is the “effective management of Reservists at Station level”. The Performance indicators are to focus on the number of reservists recruited and the number of active reservists. A zero target was however set for the recruitment of reservists.
- The following is an extract from the foreword from the Station Commander of Gansbaai of the AOP of the Station: “The Annual Operational Plan for 2018/2019 serves as a standard for the administration, budget, resource allocations and operational priorities for SAPS Gansbaai precinct.”
- Furthermore, the Station Commander of Gansbaai notes that: “Contact and Property crime is on the forefront in our community with criminals that lurk and are ready to pounce.”

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

## Station level: Hermanus

### COMMUNITY NEEDS

- Poor response to complaints
- Poor response to crime scenes
- Poor response by LCRC for fingerprint investigations
- Lack of action against abalone poachers and gang leaders
- Inability to control and Police the harbors
- Reluctance of SAPS to appoint community members as reservists
- Zwelihle community has noticed a trend of vigilantism starting in the community.
- Road closures of the R43, R 44 and N2
- Non-existence of sector policing
- Lack of visibility and no crime prevention duties in Hawston
- Hermanus SAPS are fearful of Hawston unless they accompanied by Public Order Policing (POP)
- Zwelihle community raised the police brutality which they suffers during peaceful protests
- Zwelihle community complained that cases which they report are never taken seriously

### SAPS RESPONSE: STATION AOP FOR 2018/2019

- The plan is in the same format as that of Gansbaai for the 2018/2019 financial year.
- Again, one of the objective statements is to the “effective management of Reservists at Station level”. The Performance indicators are to focus on the number of reservists recruited and the number of active reservists. A target was set to recruit 3 reservists for the financial year which is definitely not realistic, judging against the number of volunteers that offered to assist the station as reservists.
- No actions against gang leaders or organized crime syndicates are indicated
- No reference in the AOP is made to abalone poaching, the reconstruction of the K9 dog unit and the Zwelihle satellite police station.
- The baselines for the response times to complaints (Alpha 12:19 minutes, Bravo 12:43 minutes, Charlie 12:10), also seem to be incorrect, evaluating against the outcry of communities in Hawston, Mount Pleasant and Zwelihle concerning poor response times from SAPS.



# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

Station level: Kleinmond

## COMMUNITY NEEDS

- Poor response to complaints
- Poor response to crime scenes
- Police corruption
- Shortage of vehicles and members at the station
- Poor telephone etiquette of members
- Lack of action against abalone poachers and gang leaders
- Inability to control and Police the harbor
- Reluctance of SAPS to appoint community members as reservists
- Road closures of the R43, R 44 and N2
- Non-existence of sector policing
- Lack of visibility and no crime prevention duties

## SAPS RESPONSE: STATION AOP FOR 2018/2019

- The plan is in the same format as that of Gansbaai for the 2018/2019 financial year. Only the targets differ.
- The second objective statement refers to addressing the contributors to crime – provincial generators. Only four crime generators – drugs, liquor, firearms and vehicles are listed. No reference is made of addressing **abalone/marine related crimes unique to the Overberg Cluster as a crime** generator.
- One of the indicators is again to focus on the number of reservists recruited and the number of active reservists. A target was set to recruit 4 reservists for the financial year which is definitely not realistic.
- The targets set for the response times to complaints (Alpha 9:32 minutes, Bravo 12:55 minutes, Charlie 9:32 minutes), seem to be incorrect, evaluating against the outcry from communities in Betty's Bay, Hangklip, Mooi Uitsig, Rooi Els and Pringle Bay concerning poor response from SAPS.
- The [emerging priorities and challenges](#) are listed on page 11

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

Station level: Stanford

## COMMUNITY NEEDS

- Poor response to complaints
- Poor response to crime scenes
- Police corruption
- Shortage of vehicles and members at the station
- Poor telephone etiquette of members
- Lack of action against abalone poachers and gang leaders
- Inability to control and Police the harbour
- Reluctance of SAPS to appoint community members as reservists
- Road closures of the R43, R 44 and N2
- Non-existence of sector policing
- Lack of visibility and no crime prevention duties

## SAPS RESPONSE: STATION AOP FOR 2018/2019

- The foreword by the Station Commander is exactly the same as the foreword by the Station Commander of Gansbaai SAPS– only the name of the station differs. The plan therefore does not address all the safety concerns from the community.
- The plan is in the same format as that of Gansbaai for the 2018/2019 financial year and consists of the same KPA's, objective statements, performance indicators and key actions. Only the targets differ.
- The second objective statement also refers to addressing the contributors to crime – provincial generators. Only four crime generators – drugs, liquor, firearms and vehicles are listed. No reference is again made of addressing **abalone/marine related crimes unique to the Overberg Cluster as a crime generator**.
- One of the indicators is also to focus on the number of reservists recruited and the number of active reservists. A target was set to recruit only 3 reservists for the financial year which is definitely not realistic.

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

## General comments: Stations

- The 2019/2020 AOP's was not assessed as the Office of the Provincial Commissioner indicated that: "*it has not been finalized and is still in draft format awaiting the finalized targets*". This is a concern as the first quarter of the 2019/2020 financial year was already completed.
- The following table depicts the number of active reservists at the Overstrand stations for the last three financial years:

STATIONS	ACTIVE RESERVISTS 2016/2017	ACTIVE RESERVISTS 2017/2018	ACTIVE RESERVISTS 2018/2019
Gansbaai	1	0	0
Hermanus	3	3	3
Kleinmond	2	2	2
Stanford	3	3	3
Total at 4 stations	9	8	8

- The WCPO requested the current status of the recruitment of reservists at the four Overstrand stations. SAPS failed to adhere to the directive.

# **Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law**

## **Cluster level**

- The AOP consists of two programmes, programme 2 for Visible Policing and programme 3 for the Detective Service.
- Programme 2 has a key performance area (KPA) included of crime prevention and frontline service. A total of 9 objective statements are listed under this KPA. Only the first two objective statements will be discussed. The first objective statement deals with reducing the levels of reported serious crimes. The performance indicators listed are the reduction of contact crime, contact related crime, property related crime, other serious crimes, trio crimes and crimes against women and children.
- The second objective statement refers to addressing the contributors to crime – provincial generators. Only four crime generators – drugs, liquor, firearms and vehicles are listed.
- Programme 3 only has one KPA, crime detection. One of the performance indicators listed under this KPA are to improve the detection, trial ready, and conviction rates for contact crime, contact related crime, property related crime, other serious crimes, trio crimes and crimes against women and children.
- The words abalone/marine related crimes do not appear once in the entire AOP for the Cluster.
- No reference is also made to the issues identified by the communities during the consultation process with the public as indicated in the previous slides.

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

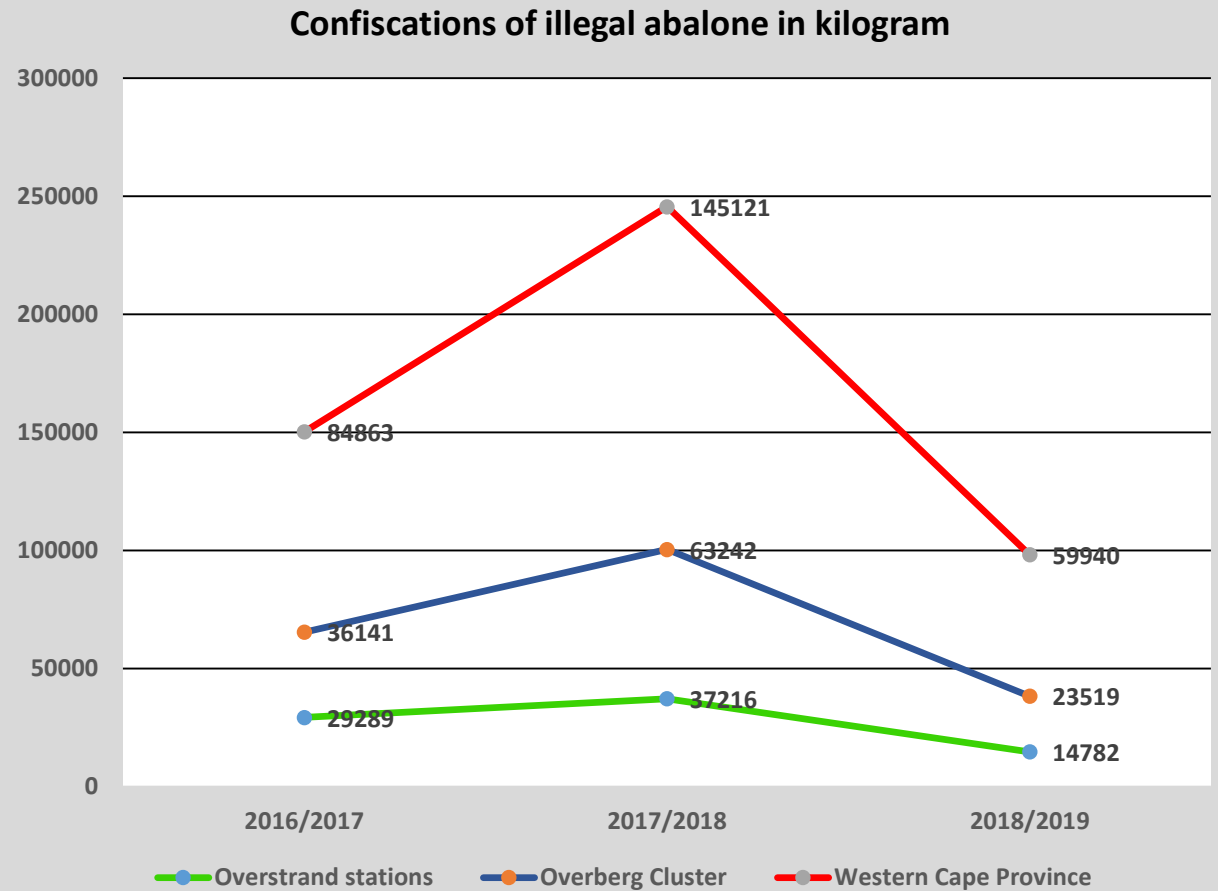
## Provincial level

- [Response from SAPS to a contingency plan](#) on abalone poaching
- Questioned whether the response implies that the SAPS does not have a duty in terms of the prevention of abalone poaching in the Overstrand area?
- Provincial Commissioner [replied](#) personally
- Request and directive were sent to SAPS awarding them the opportunity to clarify their stance on the policing of abalone and the environment. SAPS failed to adhere to the directive.
- Review of legislation concerning [SAPS powers](#) on abalone poaching

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

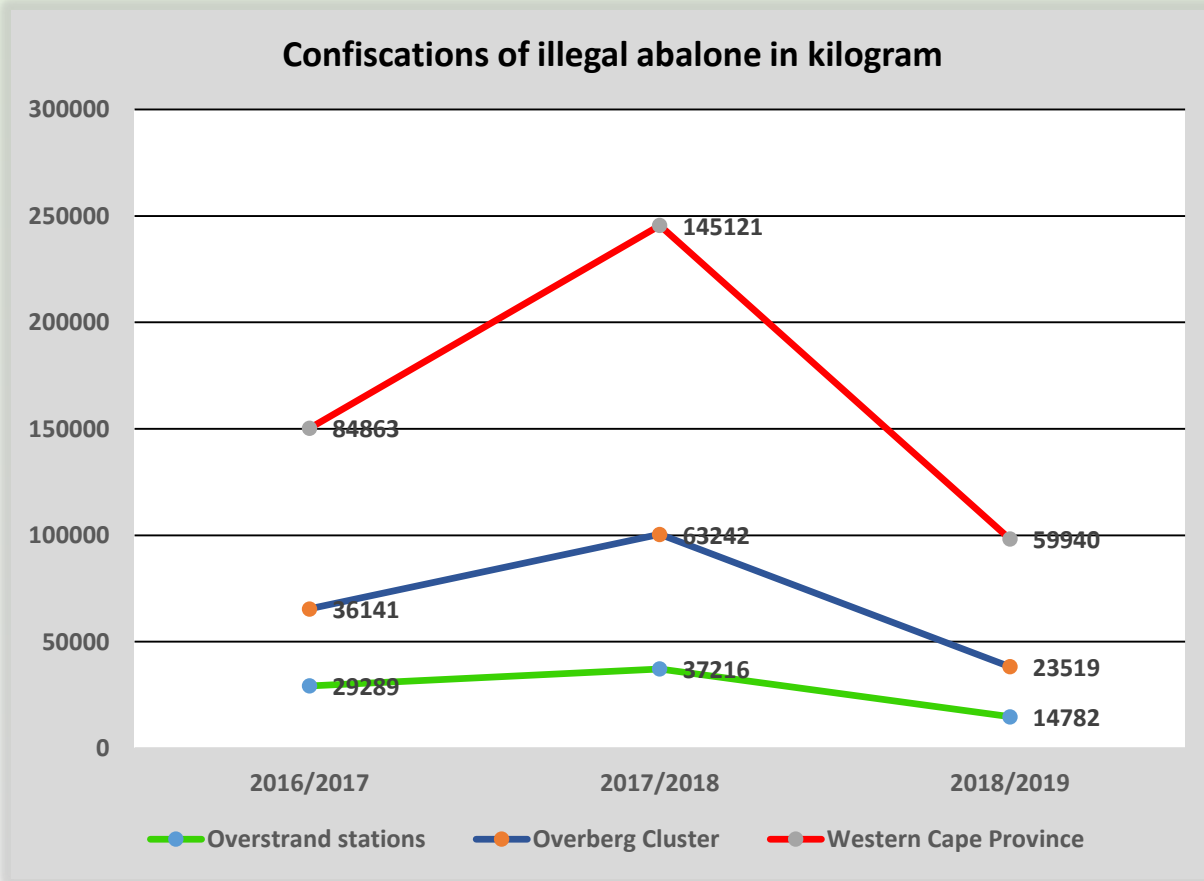
## Provincial level

OVERSTRAND STATION PRECINCTS						
Confiscations of illegal abalone						
Financial year	Cases	Arrests	Wet	Dry	Weight	Value
2016/2017	96	136	115963	2987	29289	44 830 275
2017/2018	110	153	148340	1312	37216	56 217 900
2018/2019	107	156	58964	410	14782	22 296 000
OVERBERG CLUSTER						
Confiscations of illegal abalone						
Financial year	Cases	Arrests	Wet	Dry	Weight	Value
2016/2017	121	176	127323	43098	36141	67 140 225
2017/2018	131	174	229355	59029	63242	112 571 175
2018/2019	127	204	93914	410	23519	35 402 250
WESTERN CAPE PROVINCE						
Confiscations of illegal abalone						
Financial year	Cases	Arrests	Wet	Dry	Weight	Value
2016/2017	257	440	270104	173370	84863	179 305 500
2017/2018	260	441	432788	369244	145121	328 455 300
2018/2019	276	499	180385	148435	59940	134 440 125



# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

## Provincial level



- Vast decrease in confiscations of illegal abalone over the last three financial years
- Statistics apply to confiscations by all law enforcement agencies
- Assumption can be made that the integrated operations between the different law enforcement agencies have decreased
- The focus clearly shifted away from abalone related crimes
- SAPS did not provide the case numbers for the cases registered to correspond with the data reflected in the tables as requested



# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

## National level

- DEA was designated as the Lead Department, supported by the DAFF and NATJOINTS
- The NATJOC is the Nodal Point and Secretariat for Operation Phakisa Initiative 5
- PROVJOINTS have appointed Provincial Coordinators to plan and execute operations
- Phakisa do enforcement of all legislation within the marine environment
- Have the area under control for days and even weeks, cannot be there 24 hours
- Abalone poaching in the Overstrand area is mainly driven by syndicates or organized criminal networks
- Problem with the abalone in the Western Cape is that nobody is pulling everything together and identifying the gaps
- Attacks on SAPS and DAFF property had a serious impact on the performance afterwards of officials as they were scared to act.

- State Security had sent out alerts prior to attacks, yet nothing was done
- Poachers subsequently burnt a vessel that was basically brand new with great capabilities, specifically designed for that area
- Chairperson of Phakisa is not aware of the classification of abalone related crime by SAPS
- National Integrated strategy to combat wildlife trafficking (NISCWT) with the Police
- Four species identified as priorities: rhino, elephant, cycads and abalone
- JCPS cluster approved the NISCWT and Police Minister was supposed to table it in Cabinet – not done yet
- Abalone is classified as a priority by two priority committees. Is it registered as priority crimes by SAPS?



# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

## National level

- Rhino and elephant cases are registered with their own crime codes on the CAS of SAPS
- Abalone crimes are registered in terms of the Marine Living Resources Act (MLRA)
- Previous attempts were made to have the MLRA under the National Environment Management Act (NEMA), like rhino poaching – heavier punishment
- Abalone should be classified under the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004)
- Response to project proposal to have a medium term deployment to prevent abalone related crime in Overstrand
- As Phakisa operations are not permanent, they needed the sign off from the Provincial Commissioner in the Western Cape of the operational plan.
- The WCPO requested the status of the approval of the proposal and assistance to Overstrand stations. SAPS failed to adhere to the directive.

- Diving is prohibited from Quoin Point to the main harbour hall in Gansbaai
- Prohibition is regulated by section 3 of Government Gazette No. 30716
- Strictly no diving area. Any person found in possession of diving equipment can be arrested and equipment confiscated
- Big concern of community also as vital piece of legislation are not utilized
- Details of vehicles transporting abalone, and the licence details of boats, were recorded on video footage and still images – given to SAPS as evidence
- Limited space at this stage for frozen abalone at the storage facilities, as all the available space has been utilized.
- Used to sell abalone by means of formal tender processes
- Profit generated went into the marine living resources fund

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

## Abalone storage facility

- A total of approximately 200 tons of abalone is currently stored in the facility. Correct quantum is not known due to the numerous burglaries and specific stock counts were not undertaken after each incident
- The recent Annual Financial Statements indicate abalone to the value of R 106 million is stored – the stock has not been graded
- The last time that abalone was disposed of was in December 2017
- The process which is prescribed for the disposal of abalone?
- The policy on the Handling of Confiscated Abalone which was approved on 27 November 2009 is still applicable. The following is an extract of the financial implications of the policy:

All costs associated with the management of confiscated abalone will be covered by the Marine Living Resources Fund.

All Revenue derived from the selling of the confiscated abalone will accrue to the Marine Living Resources Fund.

- Abalone to the value of R40,170,150.00 have been lost due to various criminal activities
- List of 13 cases were received and falls outside the scope of this investigation in relation to the Overstrand complaint, it is still a concern that all the cases are not investigated by the Directorate for Priority Crime Investigations (HAWKS). Three cases were investigated by detectives at different stations and are all closed as undetected.

# **Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law**

## **National level: Interview with Provincial Head of Crime Registrar**

- Accountable to the National Head of Crime registrar, but responsible to the Provincial Commissioner of the Western Cape to provide crime statistics and products
- There was never any capacity provided at Cluster level
- Huge shortage of CIMAC officials at station level. Two of the stations do not have any CIMAC officials, which are at Kleinmond and Stanford
- Abalone related crimes are not classified as priority crimes by the Provincial or Cluster Office or the Overstrand stations
- Explained the difference between A and B crimes. A Crimes are the serious crimes such as murders and attempted murders. Basically, the 21 crimes plus more. The B crimes are more police initiated crimes. Almost the petty crimes – less serious crimes. Like urinating in the street or riotous behaviour
- Doesn't know whether abalone related crimes are classified as A – or B crimes. Confirmed that they don't focus on abalone related crime

# **Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law**

## **National level: Interview with Provincial Commander Border Policing**

- Section 24 of the Bill of rights (Chapter 2 of the South African Constitution)
- Public Works Department Portfolio Committee feedback
- Extremely under strength in terms of human resources. Last year, had 50 members of Border Policing deployed in Stabilization. Came back to the unit, the majority of these members have been transferred. Still have six members at the Provincial Anti-Gang Unit. Border Policing unit is at 50-60% of the strength.
- Saldanha harbour is supposed to have 1 vessel but have none. Cape Town harbour must have five vessels and have one.
- Have done a number of operations in the Overstrand area
- Their budget was depleted in January as they are depending on their line function budget
- Have a good relationship with DEA and they have paid for their accommodation on various occasions
- Request for assistance: from Cape Town, 200 kilometres make arrests, open the case detain the suspects at the station and drive back to Cape Town

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

Article by Professor Hennie van As on “the link between marine living resources and organized crime”

- The most threatened and most widely smuggled marine living resources are abalone and West Coast rock lobster
- Rampant illegal harvesting of abalone has resulted in the loss of a commodity worth approximately R628 million per annum, should this resource have been legally harvested and traded. Difficult to calculate the cost to the economy as it is regarded as a “dark” crime
- Powers of Fishery Control Officers (FCOs) are weak – they rely upon the support of SAPS. Exacerbated by the fact that crimes relating to marine living resources are not priority crimes
- FCOs also have no powers to investigate
- Another factor is the proliferation of law enforcement agencies

**“The time to act is now – It is time that the authorities pay more attention to this scourge. What is considered to be instances of poaching are criminal acts that are linked to serious, organised crime, such as human and drug trafficking, the smuggling of contraband such as fake products, cigarettes and firearms, tax evasion, money laundering and a host of other activities”**

# Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law

**National level: Section 16 of Chapter 6 of the South African Police Service Act, Act 68 of 1995**

16. (1) Circumstances amounting to criminal conduct or an endeavour thereto, as set out in subsection (2), shall be regarded as organised crime, crime which requires national prevention or investigation, or crime which requires specialised skills in the prevention and investigation thereof.

(2) Circumstances contemplated in subsection (1) comprise criminal conduct or endeavour thereto—

- (a) by any enterprise or group of persons who have a common goal in committing crimes in an organised manner;
- (b) (i) by a person or persons in positions of trust and making use of specialised or exclusive knowledge;
  - (ii) in respect of the revenue or expenditure of the national government; or
  - (iii) in respect of the national economy or the integrity of currencies;
- (c) which takes on such proportions or is of such a nature that the prevention or investigation thereof at national level would be in the national interest;
- (d) in respect of unwrought precious metals or unpolished diamonds;
- (e) in respect of the hunting, importation, exportation, possession, buying and selling of endangered species or any products thereof as may be prescribed;
- (f) in more than one province or outside the borders of the Republic by the same perpetrator or perpetrators, and in respect of which the prevention or investigation at national level would be in the national interest;
- (g) in respect of which the prevention or investigation requires the application of specialised skills and where expedience requires that it be prevented or investigated at national level;

- Specifically Sub Section 16(2) (a), (c), (e), (f) and (g)
- Can be classified as organized crime in terms of Section 16 of the South African Police Service Act, Act 68 of 1995
- The WCPO requested whether the 9 projects/network operations relates to abalone poaching. SAPS failed to adhere to the directive.

**Ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law**

**National level**

**It is clear that SAPS in the Overstrand Stations and at the Provincial level do not have the ability to protect and secure the inhabitants of the Republic (Overstrand) and their property and the ability to uphold and enforce the law. This is partly due to resource constraints, but predominantly due to the inability of the SAPS to police the needs from the communities in the Overstrand area**



# Findings: **In general**



# GENERAL FINDINGS

- Reports on the PNP process for Overberg police stations by DOCS
- Concern that Hermanus and Stanford do not have accredited NHW structures
- Chief Prosecutor for the Overstrand area is of the opinion that investigations must be prioritized to focus on the crimes which have the biggest impact on the needs of communities
- “Green Court” was very effective and successful when it operated in Hermanus
- The calculation of the conviction rate is not a true reflection of the performance of the Detective Service
- Stanford SAPS have a larger population than both Gansbaai and Kleinmond, according to the SIP
- Absenteeism rate:

Absenteeism Rate: Sick leave					
Financial year (Annual)	Cluster	Hermanus	Gansbaai	Stanford	Kleinmond
2016/2017	3.75	5.89	2.79	2.28	3.69
2017/2018	3.57	5.57	3.24	2.2	2.96
2018/2019	3.62	3.79	4.7	3.78	4.07

# Conclusion

## CONCLUSION

- The complaint is found to be substantiated as there is indeed a shortage of SAPS resources in the Overstrand area. The unavailability of sufficient resources also has a negative impact on the efficiency of the SAPS in the Overstrand area to perform their Constitutional mandate.
- WCPO could not resolve the matter – referred to the Provincial Minister of Safety and Security in terms of Section 17(8) of the Western Cape Community Safety Act No. 3 of 2013.

# LATEST DEVELOPMENTS

[Clip from E-News](#) on Wednesday, 09 October 2019

# Recommendations

**For possible escalation to  
the National Minister of Police**

# RECOMMENDATIONS TO NATIONAL MINISTER OF POLICE

- An urgent review is conducted of the human resources allocated to the Overstrand stations and the Specialized units
- An urgent review is conducted of the vehicles allocated to the Overstrand stations
- Accommodation needs are urgently addressed
- Possibility of having a Public Order Police Unit established in the Overberg Cluster
- Evaluate levels of compliance in terms of the policy on Sector Policing
- Concerns of communities, specifically concerning police corruption and the lack of the ability of SAPS to enforce the law, be addressed
- Investigate the reasons for the inability of SAPS to investigate crime, and the deteriorating performance of the Detective Service in the Overstrand area
- AOP's for the Overberg Cluster and the four stations be urgently reviewed to ensure it addresses the needs of the communities. Also AOP's are compiled before a financial year commences
- Attention be given to the vigorous recruitment of reservists

# RECOMMENDATIONS TO NATIONAL MINISTER OF POLICE

- Project proposal for the curbing of abalone poaching in the Overstrand area be implemented urgently
- Allegations be investigated that State Security had sent out alerts prior to attacks on SAPS and DAFF property
- Ensure that the NISCWT be urgently submitted to National Cabinet for approval
- The investigation of the cases concerning the loss of abalone be reviewed and prioritized
- Abalone related crimes be categorized as a serious crime, the same as rhino poaching
- Possibility be investigated to establish a crime prevention water wing to police small harbours
- Ensure that projects in relation to abalone poaching are initiated and investigated by the Organized Crime Unit of SAPS
- Possible establishment of an Environmental Court be considered in consultation with the National Minister of Justice and Constitutional Development



# RECOMMENDATIONS FOR REFERRAL TO THE STANDING COMMITTEE

- The current policing model which is followed in the Province
- The policing approach or strategy which is followed in the Province
- Whether sector policing is still applied in the Province
- Plan as recommended in paragraph 20 by Commissioner (Dr) Luthuli in the June 2018 report of the Public Service Commission
- The status of the equality Court case: **Social Justice Coalition and Others V Minister of Police and Others (EC03/2016) [2018] ZAWCHC 181 (14 December 2018)**
- The status of the implementation of the recommendations by the WCPO following an investigation on the decline in the appointment of active police reservists by SAPS in the Western Cape
- Interrogate the information requested by the WCPO in the directive issued to SAPS

# RECOMMENDATIONS DIRECTED TO WESTERN CAPE GOVERNMENT DEPARTMENTS

- Provincial Minister of Environmental Affairs address the backlog concerning the disposal of abalone at the storage facilities with the National Minister of Environmental Affairs and Fisheries
- DOCS ensure an urgent improvement in the recruitment of accredited NHW structures in the Overstrand area
- DOCS review the public needs and priority process to ensure SAPS act to the needs identified during the consultation processes
- DOCS, in conjunction with other Provincial Government Departments, consider the establishment of community safety forums in all municipal areas

*Thank you so much*

*Enkosi kakhulu*

*Baie dankie*