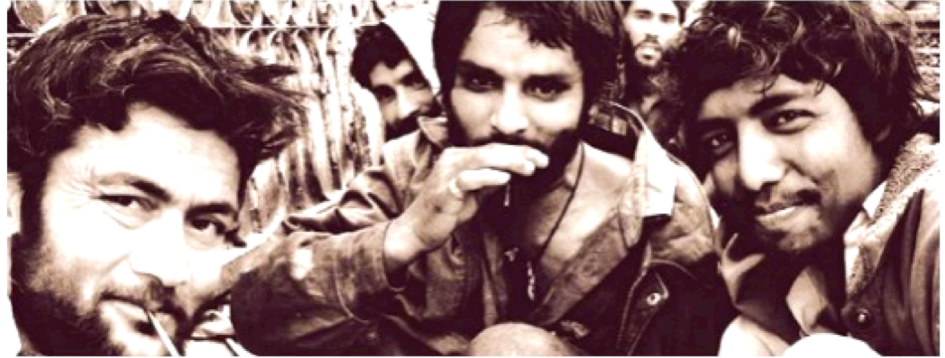
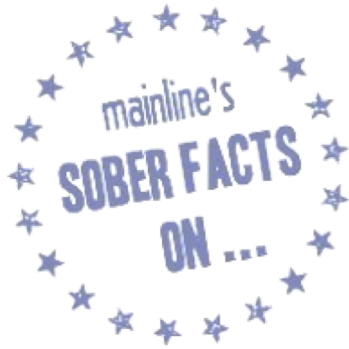


MAINline



HUMAN RIGHT VIOLATIONS IN SOUTH AFRICA

Human right violations among people
who use drugs in South Africa

Step-up project Human Rights Report
31 . 12 . 2015



amfAR
MAKING AIDS HISTORY

MAINline
DRUGS AND HEALTH

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IMAGE 1: BELLVILLE POLICE VISIT THE MOBILE UNIT WHILE A THCA STAFF MEMBER WAITS TO DELIVER SERVICES



HUMAN RIGHTS REPORT

15 AUGUST TO 15 NOVEMBER 2015



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HUMAN RIGHTS REPORT

15 AUGUST TO 15 NOVEMBER 2015

CONTEXT

This report is compiled as part of the TB/HIV Care Association (THCA) StepUp Project. This project aims to demonstrate the feasibility and outcomes of providing a needle and syringe programme and other core HIV and other health and wellness services (i.e. HIV counselling and testing, referral to antiretroviral therapy and behaviour change interventions) to people who use drugs (PWID) in South Africa, and will be formally evaluated at the end of the demonstration period in March 2016. This is the first project of its kind to be conducted in South Africa. Project planning has led to various consultative workshops with People Who Use Drugs (PWUD), and enabled initial links with provincial and national role players. Engagement with PWUD has confirmed the limited access to basic services, stigmatisation and human rights abuses experienced by PWUD; often closely linked with current drug policy.¹ It has become clear that there is a need to (1) record and (2) minimise the human rights abuses suffered by this population, and that the current human rights abuses contribute to HIV risk and present a significant barrier to accessing health and HIV related services.

In order to meet these needs, THCA has secured funding from Mainline and AmfAR to conduct various human rights projects. There are two components to this project:

1. Documentation of human rights violations: The creation of a mechanism whereby human rights can be recorded and used for advocating for the promotion of the rights of drug users.
2. Project ACE (Advocacy, Communication, Education): Using the data collected to advocate for the human rights of PWUD and sensitise organisations and institutions such as law enforcement agencies and health service providers to the needs of PWUD, while promoting integration between these stakeholders.

This document forms part of this process and should be seen in the context of previous and future documents generated by this project.

¹ UNODC. (2014). National PWID community consultation. Report. Cape Town: UNODC.

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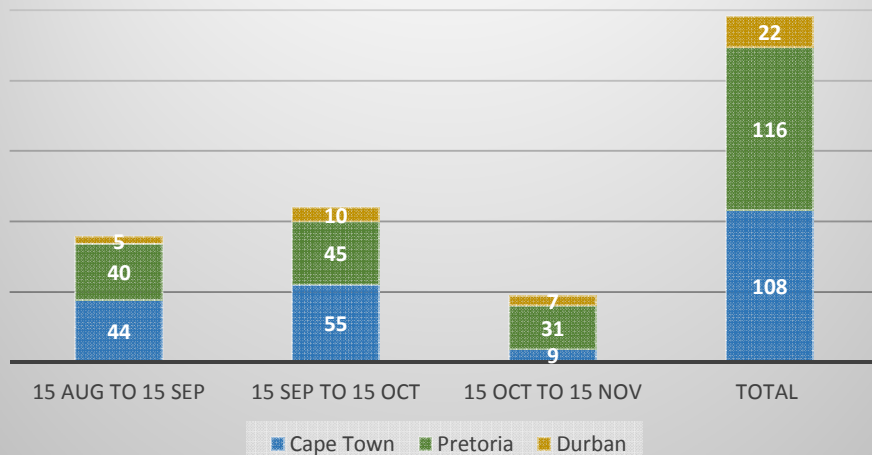
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OVERVIEW FOR QUARTER FOUR 2015

Reported human rights abuses

National



232

Human rights abuses were reported by service beneficiaries for the period. The vast majority were reported in Pretoria and Cape Town.

26 Assaults

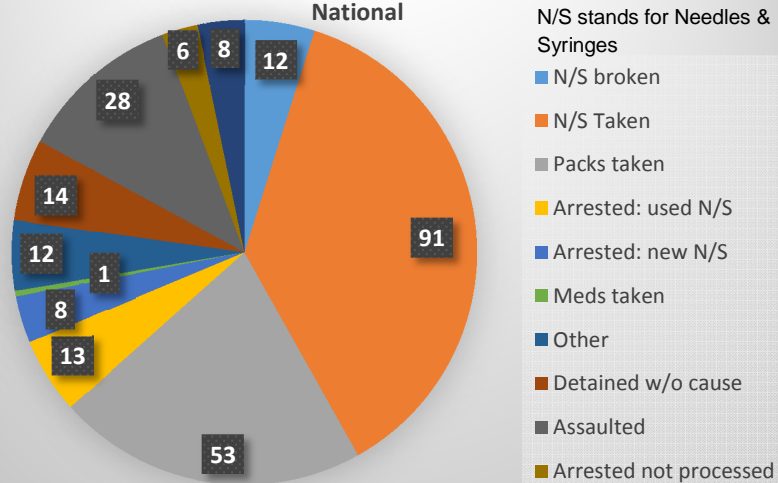
14 Detained without cause

8 cases of extortion

145 cases of medical supplies² being confiscated or broken

Nature of Abuses

National



N/S stands for Needles & Syringes

■ N/S broken

■ N/S Taken

■ Packs taken

■ Arrested: used N/S

■ Arrested: new N/S

■ Meds taken

■ Other

■ Detained w/o cause

■ Assaulted

■ Arrested not processed



82% committed by, or in the presence of, South African Police Services.

² Harm reduction packs and needles and syringes

METHODOLOGY

Process

Data is collected as part of service delivery onto paper forms by peer outreach workers. It was discussed in the previous report (August 2015 Interim Report) that a new form was developed to make to the recording of human rights violations easier. This form has been effective and has achieved the aims of better integration and efficiency. The form will continue to be tested, and future adjustments may be made to further improve the efficiency. There will be continued focus on the integration of human rights reporting into the operational procedures of service delivery.

In addition to collection of data via the forms, outreach workers and professional nurse counsellors maintain field notes that are regularly reported on. Feedback on human rights issues is also gathered from the community advisory groups and via individual service beneficiary interviews. This data informs commentary in the quarterly reports and will be triangulated to form a more comprehensive picture in the annual report.

Collation and analysis

Data is captured in each city as part of the standard operational procedures. This data is collated on a password-protected database. This data is collated every quarter and is then reported on. Currently data analysis is superficial, but as the quantity and quality of the data improves, further analysis will be undertaken.

Dissemination and application

The reports are distributed to all interested parties, including task-team members, service beneficiaries, law enforcement agencies, civil society and government. The data will inform training, engagement and policy recommendations.

Currently the data will not be used for legal action, although specific incidences may be considered serious enough to take further legal action. Currently the project does not have the financial resources to support any legal interventions through the courts.

It is hoped that by making this information available the various parties will take appropriate actions internally and all parties will be more conscious of the levels of rights violations and stigma experienced by people who use drugs.



IMAGE 2: A STEPUP PROJECT PROFESSIONAL NURSE COUNSELLOR RECORDS DATA FROM SERVICE BENEFICIARIES IN CAPE TOWN

PRETORIA

Overview



116

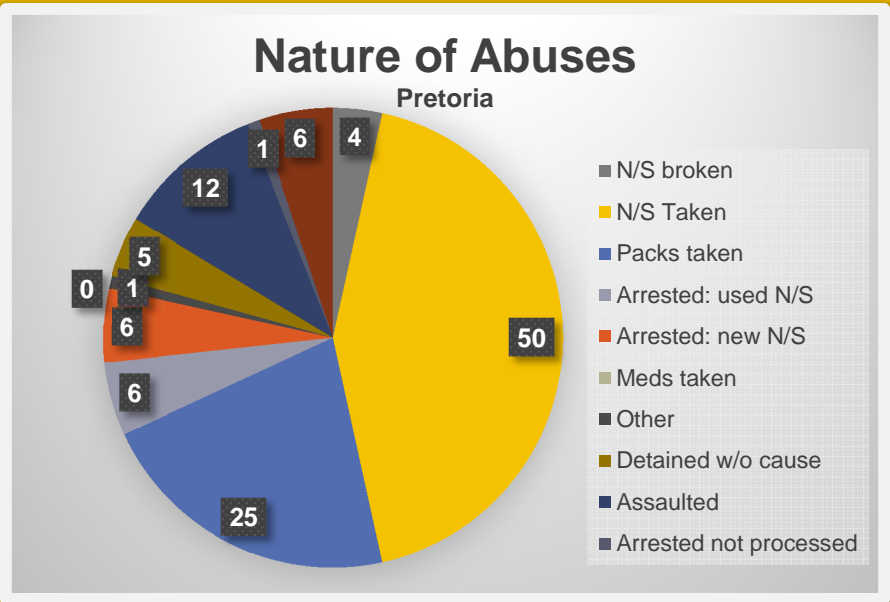
Human rights abuses

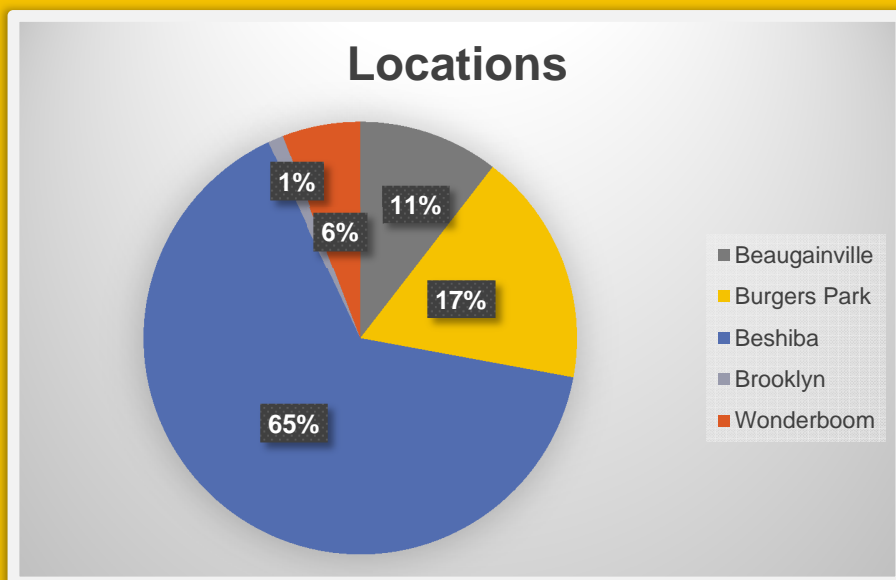
12 Assaults

5 Detained without cause

6 cases of extortion

75 cases of medical supplies being confiscated or broken





65%
of incidences
in one
location

GENERAL COMMENTS

A number of human rights abuses were reported in Pretoria, but the majority of these have taken place in the Moot area (76%), and particularly at one location, Beshiba. The background to this and further details are reported on below, as is an incident that took place in the Wonderboom location.

It was reported in the Q3 report that there has been significant and constructive engagement with law enforcement in Pretoria. This trend has continued, as is shown in this extract from the project narrative report for August:

Project Staff met with Pretoria North SAPS to introduce the project, discuss the destruction of needles and inform the station of outreach in that area. This meeting was well received. A partnership ensued between the station and the project.

On-going community advisory groups were held and various human rights issues discussed. Of concern was the report of vigilante-style attacks on drug users. This trend is discussed briefly in the final commentary section of this report.

MOOT AREA

The Moot area accounts for more than 75% of all the human rights abuses reported at the Pretoria site. These abuses include the confiscation of HIV prevention commodities, assault, and notably six cases of bribery and/or extortion. The majority of these cases have taken place at one location at the Beshiba complex, also known as Beshiba or Melgisedek.

The buildings are occupied by displaced people of mixed race and origin, including refugees, pensioners, adolescents and the mentally ill. There is a notable lack of services, but there is a sense of community with informal shops



IMAGE 3: A VIEW OF THE BESHIBA COMPLEX

and a mutual-support systems clearly evident amongst the residents. The StepUp Project provides services at the location twice per week to around 50 individuals.



IMAGE 4: A STEPUP PROJECT VEHICLE AT THE BESHIBA LOCATION

In May 2015 the StepUp Project met with Moot South African Police Services to discuss the project. Once the project started there was a high rate of confiscation of HIV prevention commodities at the Beshiba location. In line with the project operating procedures, a further meeting was held with the station commander on 22 July 2015. This approach had worked effectively in other areas and locations of Pretoria, as reported in the Q3 report. In the case of the Moot area, these incidents continued, and possibly escalated.

“Today’s encounter with the Community Policing Forum was possibly the most difficult situation I think I have been in and faced since working on the StepUp Project. I am just trying to process the events of the day. The amount of anger and hatred I experienced today I think has left me in a state.”

- StepUp Project staff member after meeting with the Moot Community Policing Forum.

On the 7th of October 2015, the project received a phone call from an individual fraudulently claiming to be a ward councilor. The individual was confirmed to be a member of the Community Policing Forum (CPF) for the area. She was extremely aggressive, and stated that “we” were “removing [harm reduction] packs as fast as you are giving them out.”

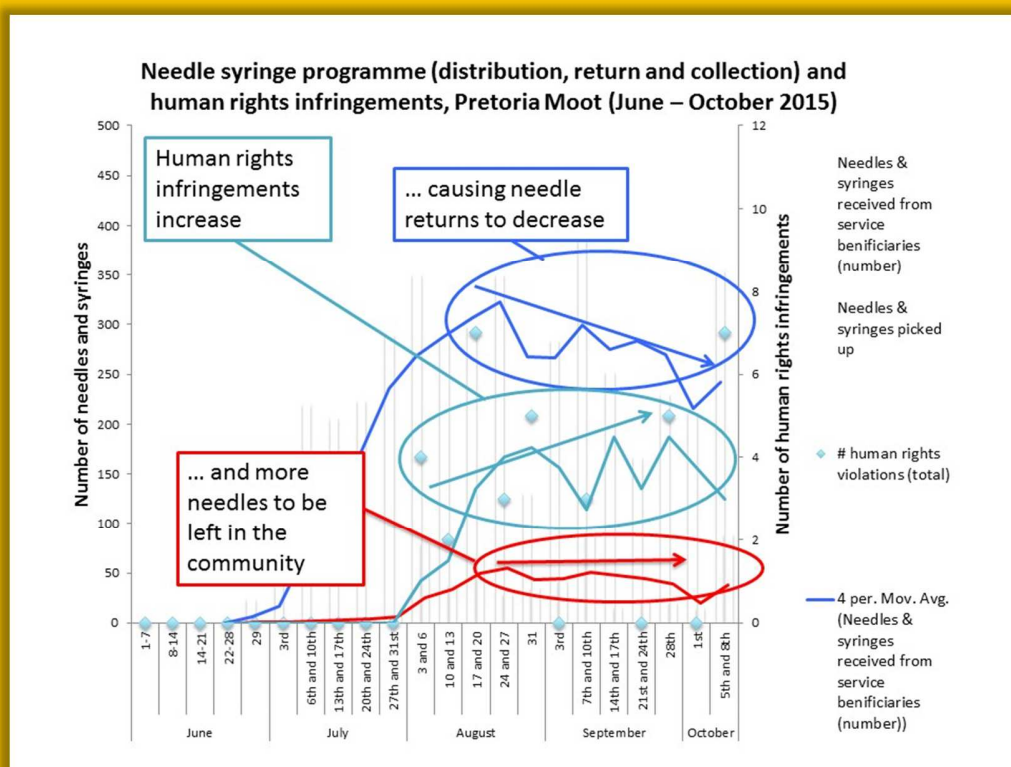
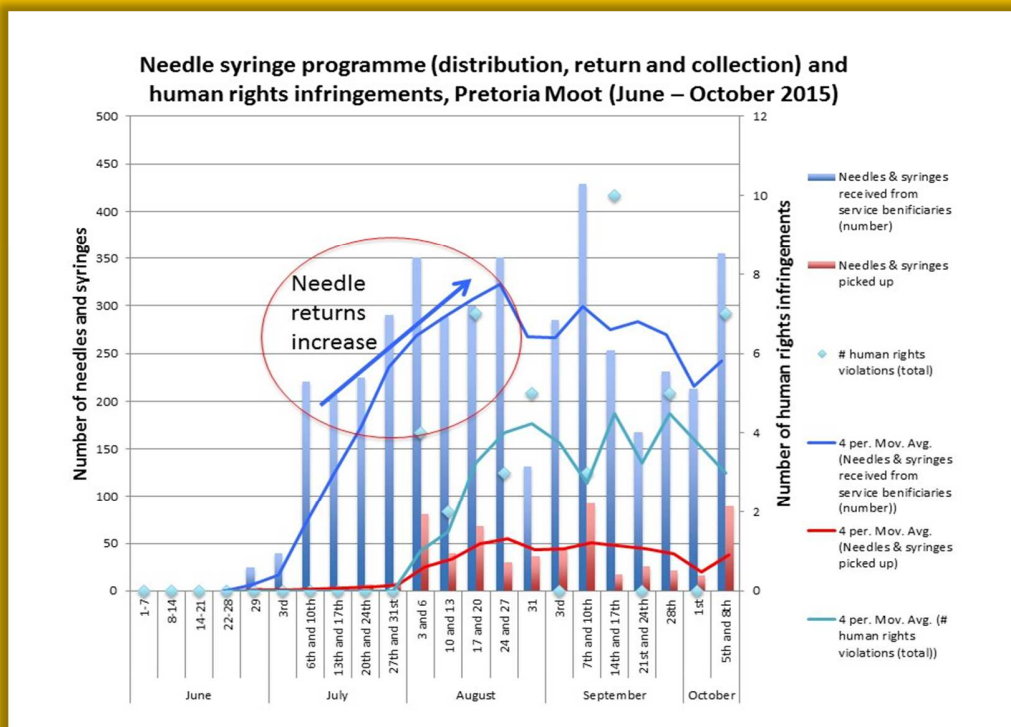
As a result of this, the project team attempted to engage with the parties, but were excluded from the community meeting arranged by this individual. On the 19th of October 2015, the project was able to present at the Moot police station to the CPF. The evidence for the project was presented, although those present did not seem willing to consider the data or that the services provided were part of international best

practice. It was clearly stated that confiscations would continue and that service users would continue to be harassed.

A meeting was organized on 22 October 2015 to consult with PWID service beneficiaries. From these minutes:

The answer was unanimous from all service beneficiaries; they would still like to receive all services, including needles and syringes regardless of the threats and harassment. The answer was unanimous among all service beneficiaries; they believe a needle/syringe exchange [as opposed to provision with no requirement for return] would be the most effective solution to the problem. They also stated that they would assist and help with site clean-up on a regular basis.

Data was collected and analysed, showing the relationship between the human rights infringements on return rate for needles. (Graphs prepared by Dr Andrew Scheibe).



Despite repeated attempts to engage with the various parties, and repeated attempts to secure the attendance register for the CPF meeting, this has not been forthcoming. There has been a decrease in the numbers of reported violations, and the full implications will be analysed and reported on in the Q1 2016 report.

WONDERBOOM

Despite early issues during the second and third quarter of 2015 at the Wonderboom location, resolution was found through consultation with the local South African Police Services (SAPS), and service delivery had continued with only one service beneficiary being detained without charge for the possession of used needles.

However, on the 22nd of October 2015 there was a cluster operation involving various law enforcement units, including the K9 unit. A number of serious human rights violations took place during this single operation, including assaults and detention without cause. There were reports of teargas being sprayed into plastic bags and put over people's heads, as well as people having their heads held under water.

This event was particularly disappointing because the project has a good working relationship with South African Police Service (SAPS) in the area. The actions by SAPS were clearly unlawful. At this stage it is unclear as to why this operation took place.



IMAGE 5: WONDERBOOM SERVICE DELIVERY SITE

“Seeing their [law enforcement and community policing forum] reaction today and hearing their hatred has really reminded me on how difficult using drugs is, when everyone (society) is against you, no one wants to know who or what happened to you, they just hate you because they don’t understand you.

People who use drugs are human and we deserve to be treated as humans, not waste or shoved somewhere, moved and chased away from area to area, being denied services at every bend, constantly being harassed and arrested or some statistic in a database somewhere. We are people god-dammit, we deserve to be treated like people.”

- StepUp Staff Member

CAPE TOWN

Overview



116

Human rights abuses

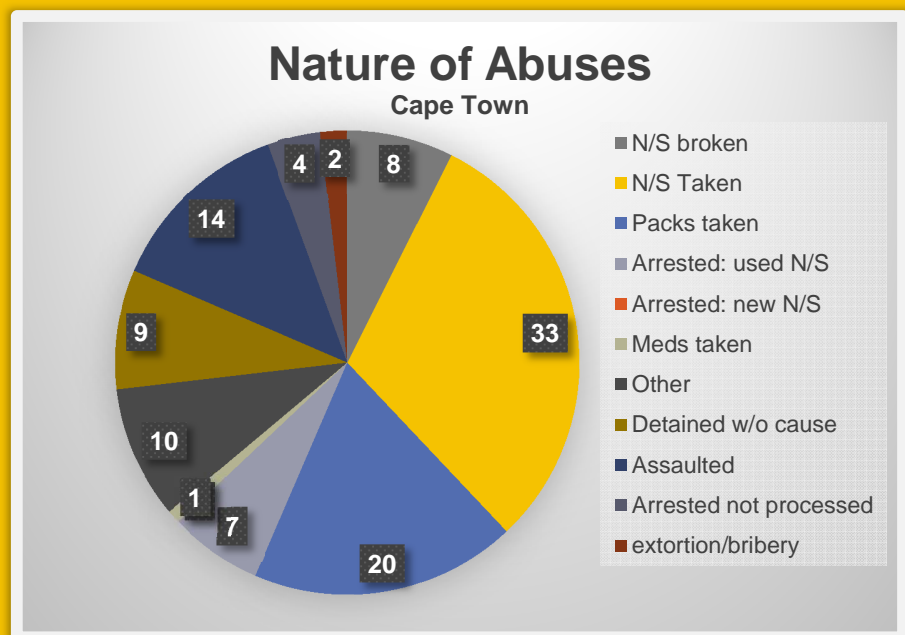
With most in one area

There was a sharp drop-off for the number of violations reported in the period 15 October to 15 November. This does not mean that violations reduced. Service delivery was severely affected, and access to PWID was hampered. There was also an increased reluctance on the part of PWID to formally report incidents and a general feeling of futility around this.

14 Assaults

9 Detained without cause

53 cases of medical supplies being confiscated or broken



BELLVILLE AREA

Similar to the Pretoria site, Cape Town experienced primarily one area reporting a significant number of human rights violations, namely the Bellville area. Despite continued dialogue and training by StepUp Project team with the Voortrekker Road Corridor Improvement District (VRCID), resulting in a temporary reduction in violations, these violations still continue in some locations in this area. Increased actions and violations around the Tielman Marais Park were particularly evident. While support from senior officials was strong, this often did not filter down to the street-level.

“With a few notable exceptions, communication within policing structures has not resulted in support for the project filtering down to the patrol car level. Often there have been positive responses from command, with little or no impact on the activities of police officers on the street.”

– Cape Town project coordinator

IMAGE 6: TRAINING OF VRCID FIELD WORKERS



Since the beginning of the project the level of harassment in the Bellville area has been high. It is therefore perhaps not surprising that Bellville has the lowest rate of syringe return for the project across all 3 cities (14%). This was discussed at various community consultation groups. It was pointed out that needles are taken not only by police, but also by gangsters because they still have a street value. This is indicative of the need for increased distribution.

One of the areas identified for service delivery was the Tielman Marais Park. This location proved to be popular, with around 30 service beneficiaries attending regularly. A complaint about this location was received on 1 October 2015. While alternative locations were sought and tested immediately, the complaints continued. This was reported in the press.



IMAGE 7: PRESS REPORTS AROUND THE REMOVAL OF SERVICES FROM BELLVILLE



A coordinated effort has been made by the Bellville councilors, the Boston neighbourhood watch, community policing forum, VRCID security - with some level of support from SAPS - to disrupt and prevent service delivery and drive drug using members of the community out of the area. There have been numerous reports of people being threatened, sworn at, assaulted and chased out of public spaces. This has often happened at night or in the early hours of the morning. Service delivery has been monitored closely as can be seen from the included images. This intimidation, along with the constant forced relocation of services has resulted in a significant drop in the number of people who are able to access services.

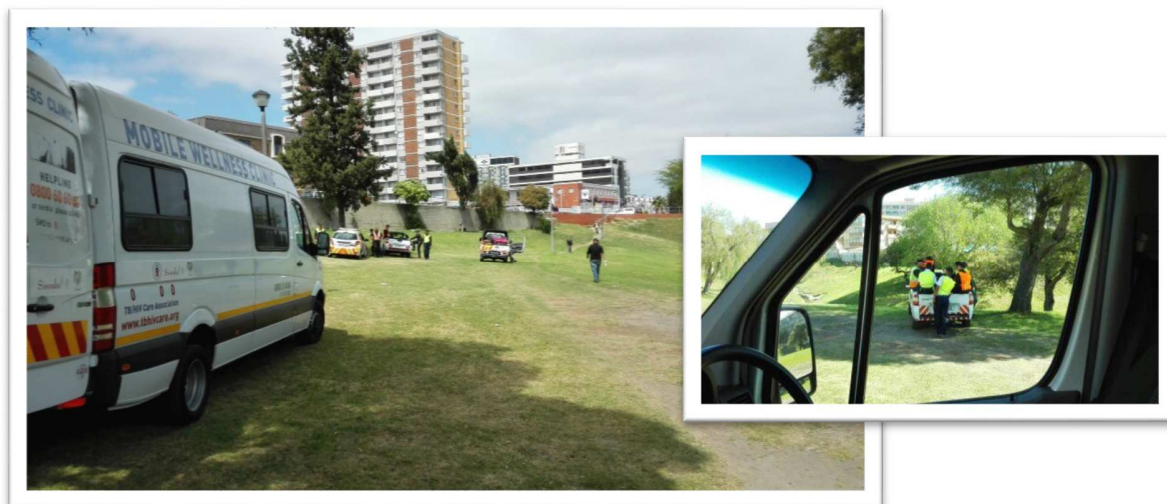


IMAGE 8: UNDER OBSERVATION - VARIOUS LAW ENFORCEMENT AGENCIES KEEP A CLOSE EYE ON HEALTH SERVICE DELIVERY

“As health professionals providing essential HIV prevention services we are experiencing escalating unease and stress due to constant observation and the, at times, aggressive law enforcement agencies and community members. If we are experiencing these feelings of vulnerability, it isn’t difficult to imagine how our service beneficiaries feel. It is no wonder our numbers are declining, and every day we hear how this systematic harassment negatively impacts on their health and wellbeing.”

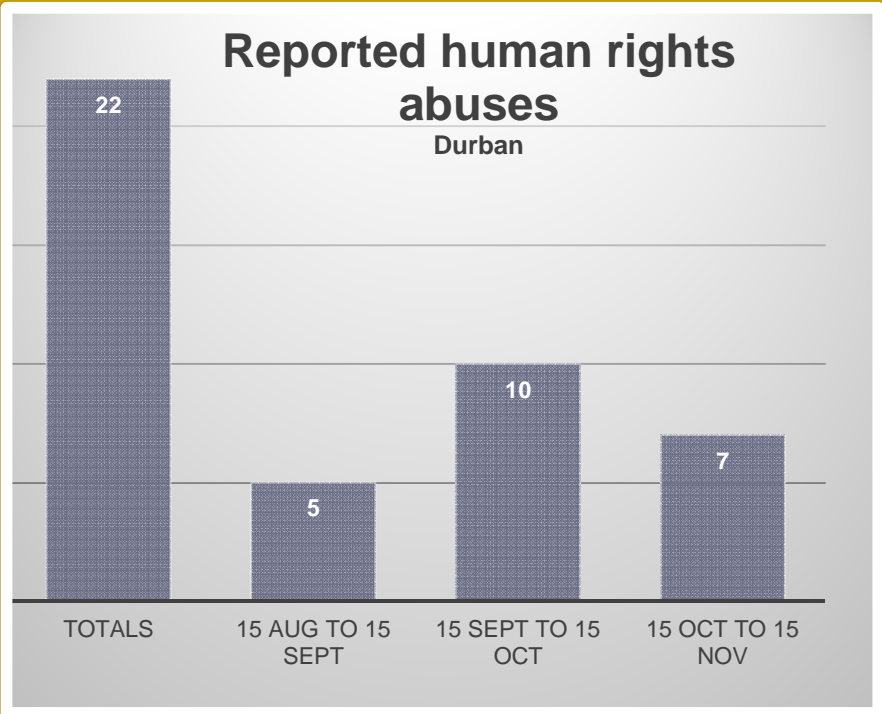
- StepUp Project Professional Nurse Counsellor

The responsible councilors attempted to exert pressure on various levels of local government to have the delivery of services stopped. A number of academics have written letters of support for the project. A meeting was held between the project, the relevant councilors, the political head of health, the head of HIV/AIDS/STI/TB and a city substance abuse representative.

During this meeting the local councilor voiced his objections, insisting that services be stopped, even if there was good evidence for them. The project had already relocated services, but refused to stop service delivery as there is a mandate in place with health to provide essential HIV prevention services. Senior political figures are supporting the project. However, on the ground there continue to be significant problems, and these will need to be monitored and at some point further action will need to be taken to protect the rights of drug-using members of the community.

DURBAN

Overview



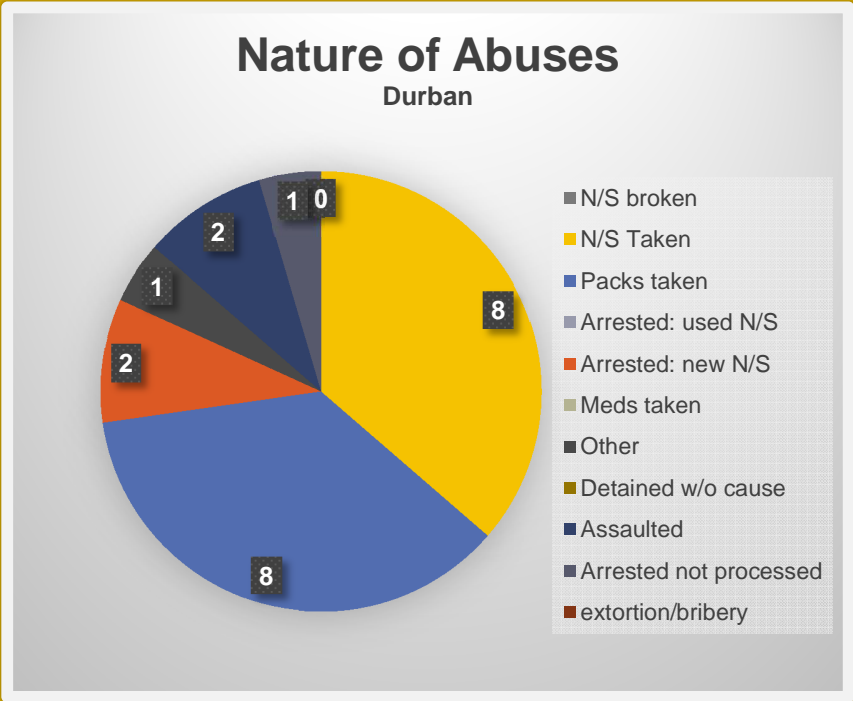
22

Human rights abuses

2 Assaults

2 Arrested with unused commodities

16 cases of medical supplies being confiscated or broken



DURBAN

Durban has reported very few human rights abuses. This could be that the process of recording these instances is not fully operationalized, but it should also be noted that in the rapid assessment study conducted in 2013, Durban had the lowest level of negative interactions with law enforcement. It also seems as if in some areas there may be a “softer approach” to dealing with drug users, as outlined in a local press report where an alleged drug user with paraphernalia was released despite protests from a community member.



It should also be noted that the Durban population is extremely mobile, and that it is the city with the smallest number of service beneficiaries currently accessing services of the three cities in the StepUp Project Consultations with law enforcement took place in December 2015, and the situation will continue to be monitored into 2016.

IMAGE 9: ARTICLE ON RELEASE OF DRUG SUSPECT IN BEREA MAIL



IMAGE 10 DURBAN TEAM MEMBERS PREPARE FOR OUTREACH

Despite the low levels of recorded human rights abuses, they are occurring. At the 1 October 2015 PWID community advisory group meeting, one of the members had been arrested for unused needles, and was charged. We are awaiting feedback on this case. It has also been anecdotally reported that project ID cards had been removed by Metro Police. There were also anecdotal reports of SAPS breaking needles.

COMMENTARY

This report is the first to attempt to report quantitative data as well as qualitative data in the context of human rights abuses towards service beneficiaries of the StepUp Project. There have been sustained reports of human rights abuses via community consultations and in the course of early service delivery, but the exact numbers and nature have been unclear. While the data collected during this period as a component of service delivery is not definitive and many human rights abuses may not have been recorded (see limitations section), and further data gathered over subsequent months will be required to validate initial trends, it gives a valuable insight into the lived experience of drug users in South Africa, particularly street-dwelling injecting drug users. The continued analysis of data and trends will also help show the relationship between human rights abuses, service utilization and access to people who inject drugs (PWID).

CONCENTRATION OF VIOLATIONS

Perhaps the most obvious issue that comes out of the preliminary data is how human rights abuses tend to be focused in a single area. In both Pretoria (Moot) and Cape Town (Bellville) more than 70% of the abuses suffered are in a single area. What is further interesting to note is that these areas have a “zero tolerance” approach driven by a political agenda. One could argue that along with the “zero tolerance approach” there comes a tacit approval of the violation of human rights, though not all of these are not openly sanctioned. Under the guise of upholding the law, the law is being violated.

There has been a tendency for police officers to represent their harassment of PWID as a strict adherence to the law, sometimes framed as being in spite of their own personal desire to be more lenient. However the reality is often that police activities are in clear contravention of the law whereas the precipitating events involve, at worst, bylaw infractions.

- StepUp Project Cape Town coordinator

In both the Bellville region of Cape Town, and in the Moot area of Pretoria, there has been the active involvement of individuals who believe that they have a “moral” obligation to act against the project and drug users, at almost any cost. In one meeting it was stated by a politician that “I will resign before these services will happen in my ward” and in another meeting a member of the community policing forum commented “as fast as you are handing out harm reduction packs we are confiscating them”.

While these individuals and organisations may believe that they are protecting human rights, they are providing the platform for the continued violation of human rights of PWID; explicitly through assaults, illegal arrests, theft of property and harassment, and implicitly through the effective prevention of PWID accessing public spaces and medical interventions that are a basic human right of all people.

EXCLUSION FROM THE COMMUNITY

One of the key precipitators of active violations of PWID rights is their simple presence or movement through public space and the “Nimbyism” (Not In My Back Yard) that follows by some members of the community. An example is the Tielman Marais Park in the Bellville area of Cape Town. This is an underutilized public space earmarked for development that has served as a meeting place for many indigent people, some of whom happen to be drug users. The presence of the mobile clinic made various organisations more aware of the presence of local PWID, and this led to a concerted effort to drive these people away. Similarly, in the Moot area of Pretoria, the presence of drug users is being

used as a justification to remove all indigent people from the Beshiba flats complex. This was verbalized during a meeting with a ward councilor from the Bellville area who stated: “I understand the services you are providing, I see the need, but you cannot do this in my ward.”

UNINTENDED CONSEQUENCES

It is ironic that one of the main reasons parties say they do not want the StepUp Project to operate in a particular area (Nimbyism) is because of the “risk” of inappropriately discarded medical waste, particularly “sharps”. What these commentators fail to acknowledge is that services are delivered where the PWID population is already congregating. These areas often already have high levels of pollution or discarded items, including needles (see image 2). By refusing service delivery in these areas and by increasing law enforcement action, they are increasing the levels of discarded sharps for two reasons:

1. We are no longer present to collect needles at an area where PWID will continue to occupy.
2. The continued arrest and prosecution of individuals who are in possession of used injecting equipment will necessitate the rapid disposal of equipment once it is used.
3. When we have engaged with PWID around the inappropriate disposal of sharps, particularly in environments where there is more tolerance, they have come up with innovative solutions, including the construction of locked sharps container holders, self-initiated clean-ups and the establishment of drop-off points.



IMAGE 11: TWO AREAS WHERE THE PROJECT WAS ACCUSED OF "CAUSING" POLLUTION, AND AN EXAMPLE OF NEEDLES COLLECTED BY PEER WORKERS

WAY FORWARD

While the individual examples of human rights violations are important, and should certainly not be ignored, it is obvious that by addressing the prejudices and misconceptions held at a political and/or “community” level, the biggest changes can happen in the shortest space of time. As such, the project will continue to pay special attention to addressing the issues in areas where abuses are focused. The StepUp Project will continue to engage all levels of the community with the aim of contribution to the overall wellbeing of all community members, including drug users.

It is also hoped that by sharing this report with the service beneficiaries, they will be encouraged to formally report human rights abuses. Due to high levels of stigmatization, these are seldom reported, and when they are, they are usually ignored. As such the level of these abuses is poorly understood.

The forms and data collection processes will continue to be evaluated and improved, and as the data increases, there will be an opportunity for trend analysis.